STATE OF MISSOURI
DEPARTMENT OF NATURAL RESOURCES
Bob Holden, Governor • Stephen M. Mahfood, Director
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NOV - 4 2003

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APCO

Ms. Yvonne Pierce
Group Manager
Environmental & Hazardous Material Services
McDonnell Douglas Corporation
2600 North Third Street
St. Charles, MO 63301

RE: Part 70 Operating Permit, Project Number: 2002-12-050
Response to Comments

Dear Ms. Pierce:

The Missouri Air Pollution Control Program (APCP) has received your comments submitted during the public comment period on the draft Part 70 Operating Permit for McDonnell Douglas Corporation. The APCP has made some revisions to your draft operating permit in response to all comments received. Enclosed is the APCP's response to these comments and a copy of the revised operating permit which is being submitted to the Environmental Protection Agency (EPA) for their review.

The EPA has 45 days from the receipt of this operating permit to notify the Missouri APCP of any objections. If the EPA has no objections, your operating permit will be issued shortly after this period. If the EPA does have objections, additional changes or revisions may be required to the operating permit to respond to the EPA's comments.

If you have any questions or additional comments, please contact me at (573) 751-4817, or you may write to the Department of Natural Resources, Air Pollution Control Program, P.O. Box 176, Jefferson City, MO 65102. Thank you for your time and attention.

Sincerely,

AIR POLLUTION CONTROL PROGRAM

Amish Daftari
Environmental Engineer

AD/dg

Enclosure: Proposed Final Title V Operating Permit
APCP Response to Public Comments

c: PAMS File 2002-12-050

STATE OF MISSOURI
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MEMORANDUM

DATE: NOV - 4 2003

TO: 2002-12-050 File, McDonnell Douglas Corporation

FROM: Amish Daftari, Environmental Engineer
Air Pollution Control Program

SUBJECT: Response to Public Comments

The APCP has received four sets of comments from A. Yvonne Pierce of McDonnell Douglas Corporation, a wholly-owned subsidiary of The Boeing Company ("Boeing") regarding the revised "draft" operating permit for McDonnell Douglas Corporation, a wholly-owned subsidiary of The Boeing Company (hereafter, referred to as Boeing).

August 15, 2003 Comments from A. Yvonne Pierce

Comment #1: Background and Incorporation of Prior Comments.

A Title V operating permit was issued by the Missouri Department of Natural Resources ("DNR") to Boeing's St. Charles facility ("Boeing-St. Charles") on April 9, 1999. On December 3, 2002, Region VII of the Environmental Protection Agency ("EPA") sent a letter to DNR, stating that Region VII had determined that cause existed to reopen the Boeing-St. Charles Title V permit. See Attachment A. On December 11, 2002, DNR sent a letter to Boeing, stating that it agreed with EPA's determination and that it was in the process of reopening the Title V Permit. See Attachment A. Boeing was invited to submit comments to the proposed reopening and to "provide information beneficial to incorporating the proposed revisions into the Title V Permit." Subsequently, on December 23, 2002, DNR responded to Region VII, stating that it agreed with Region VII's determination and that it had reopened the permit for cause. See Attachment A.
In response to DNR's December 23rd letter, Boeing agreed to engage in discussions with DNR regarding reissuance of a modified Title V permit for the Boeing-St. Charles facility. As proposed by DNR, the goal of these discussions was to achieve a revised permit that both addressed the Region VII recommendations, as well as the specific items for which Region VII and DNR agreed cause existed to reopen the permit. Throughout, however, Boeing reserved its

right to object to the reopening for cause as well as any revised permit terms. Subject to that reservation, Boeing submitted a number of comments to DNR, copies of which are attached hereto. See Attachment B, C, and D. For purposes of this submittal, Boeing expressly restates the comments previously provided in Attachments B, C, and D and incorporates those comments herein.

> Response to Comment #1: *The Air Pollution Control Program (APCP) has included the comments previously submitted by Boeing and the responses provided to the comments via e-mail in this document.*

Comment #2: Reopening for Cause Requires a Contested Case Hearing

Under the Missouri Administrative Procedure Act ("MAPA"), a proceeding to reopen a Title V permit is a "contested case" requiring compliance with R.S.Mo. § 536.060 through § 536.083. By statute, DNR may reopen a Title V permit only for "cause." R.S.Mo. § 643.078(10). In accordance with the Missouri Title V program's implementing regulations, cause exists to reopen a Title V permit only if one of the five conditions specified in 10 CSR 10-6.065(6)(E)6.A. are present. Of relevance here, cause exists if (1) DNR "determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions limitations standards or other terms of the permit" or (2) DNR "determines that the permit must be reopened and revised to assure compliance with applicable requirements." 10 CSR 10-6.065(6)(E)6.A.(II) and (V). In either case, the Title V implementing regulations, which have the force and effect of law, require that DNR make a factual and/or legal determination regarding the existence of circumstances that warrant reopening.
In arriving at the factual and/or legal determination whether cause exists, DNR is compelled by regulation to give the permittee adequate notice of its proposed determination, including a "statement of the terms and conditions that [DNR] proposes to change, modify, or delete." 10 CSR 10-6.065(6)(E)6.B.(I). Moreover, DNR must "give the permittee an opportunity to provide evidence that the permit should not be reopened." 10 CSR 10-6.065(6)(E)6.B.(II). This is similar in procedure to that provided when EPA itself objects to a permit and seeks to modify, reopen, or terminate a permit for cause, in which case the permittee is given notice and an opportunity for a hearing. See 40 C.F.R. § 70.7(g)(5)(i) and (ii). In effect, then, these substantive and procedural requirements contemplate an adversarial proceeding between DNR and the permittee, "in which legal rights, duties, or privileges of specific parties are required by law to be determined after hearing." R.S.Mo. § 536.010(2). As such, a proceeding to reopen for cause is a "contested case" subject to the requirements of the MAPA.

> Response to Comment #2: *According to 10 CSR 10-6.605(6)(E)6.A.(II), a Part 70 (Title V) operating permit shall be reopened for cause, if –*
>
> > *"The permitting authority or the administrator determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emission limitations standards or other terms of the permit."*
>
> *The December 3, 2002, letter from EPA Region VII (administrator) states the following regarding the authority for re-opening the permits and addressing the re-opening for cause issues brought forward by EPA Region VII:*
>
> > *"The specific authority for reopening the permits is contained in 40 CFR §70.7(f)(1)(iii) and (iv), and equivalent state regulations, which require reopening where a permit contains a material mistake, or to assure compliance with applicable requirements...*

...As a consequence of these reopenings for cause actions, MDNR is required to reopen the Title V permits according to the procedures in 40 CFR §§ 70.7(f) and (g) and 10 CSR 10-6.065(F)1.D. MDNR must provide EPA with proposed permits that include the revisions listed in the enclosures within 90 days from the date that you receive this letter. You may ask for an extension to request new information from the permittee, which EPA may grant if we determine that the extension is necessary. See 40 CFR §70.7(g)(2). Because the deadline for reopening a Title V permit will arrive very quickly, we recommend that MDNR begin this process immediately. The reopening process must include an opportunity for all interested parties, including the source and members of the public to comment on the draft revised permit.

If MDNR does not reopen the permits as required by EPA and Missouri regulations, EPA will be required under 40 CFR §70.7(g)(5) to terminate, modify or revoke and revise the permits...."

The equivalent state requirements for 40 CFR Part 70, §70.7(f)(1)(iii) and (iv), are 10 CSR 10-6.065(6)(E)6.A.(II) and (V).

Upon receipt of the December 3, 2002, EPA Region VII letter, the APCP followed the provisions of 10 CSR 10-6.065(6)(E)6. and 7. The provisions of 10 CSR 10-6.065(6)(E)7., state the following:

"7. Reopening permits for cause by the administrator.

A. Notice of cause. If the permitting authority receives notice from the administrator that the administrator has found cause to revoke, modify or reopen and reissue a part 70 operating permit, the permitting authority, within ten (10) days after receipt of this notification, shall provide notice to the permittee. The notice to the permittee shall include a copy of the notice from the administrator and invite the permittee to comment in writing on the proposed action.

B. Proposed permitting authority response. Within ninety (90) days following receipt of the notification from the administrator, the permitting authority shall issue and forward to the administrator a proposed determination in response to the administrator's notification. The permitting authority may request an additional ninety (90) days for this submission if this time is required to obtain a new or revised permit application or other information from the permittee.

C. Comment by the administrator. The permitting authority shall address any further comment or objection from the administrator on the permitting authority's response to the administrator notification pursuant to this section."

On December 11, 2002, the APCP mailed a letter to Mr. John Van Gels of Boeing regarding the administrator request to reopen the permit and informed Boeing of the intent to reopen the Title V permits. In addition, the APCP faxed a copy of the letter to Boeing on December 12, 2002. The December 11, 2002, letter states the following regarding the authority for re-opening the operating permit for cause and requested input from Boeing:

"...The Air Pollution Control Program agrees with EPA's assessment of the operating permit as issued, and is in the process of reopening the Title V permits. The authority for the EPA to reopen the permit is contained in 40 CFR §70.7(f)(1)(iii) and (iv), and the equivalent state regulations, which require

reopening where a permit contains a material mistake, or to assure compliance with applicable requirements. The specific details that prompted this reopening are detailed in the enclosures.

The Air Pollution Control Program is required to reopen the Title V Permit according to the procedures in 40 CFR §70.7(f) and (g) and 10 CSR 10-6.065(6)(E)7. The Air Pollution Control Program must provide the EPA a proposed permit that includes the revisions listed in the enclosures within ninety (90) days from December 9, 2002. The Air Pollution Control Program invites Boeing Corporation to comment in writing on the proposed action, as cited in 10 CSR 10-6.065(6)(E)7.A. The Air Pollution Control Program also invites the Boeing Corporation to submit any information that would be beneficial to incorporating the proposed revisions into the Title V Permit."

In addition, the EPA Region VII letter identifying the reopening for cause issues was included as an enclosure. Therefore, Boeing was informed of the circumstances regarding the reopening for cause and was invited to provide information on the proposed action and revisions, which satisfies the requirements for 10 CSR 10-6.065(6)(E)6.B.(I) and (II). Even though the December 11, 2002, letter did not specify a 30 day timeframe, Boeing was given the opportunity to provide evidence that the permit should not be reopened.

During the week of December 16-19, 2002, Boeing, St. Louis County Health Department and APCP e-mailed concerning the response to the December 3, 2002, letter from EPA Region VII addressing the schedule and 60 day extension request to address the reopening for cause issues and additional recommended permit revisions. On December 17, 2002, the APCP received an e-mail from Bret Spoerle of Boeing with the following information:

"I've talked CAM over with a couple of more people and determined that I need to dig a little deeper into it before we make a decision on addressing it. I don't want to make a decision before I am comfortable what the ramifications will be. It will probably be sometime in January before I can make that decision, so don't wait on me before sending the letter out. I think Pam's idea to mention to EPA Region VII that CAM is still being discussed and may result in an additional extension request is a good one."

Based on the confirmation from Boeing, the APCP finalized the response to the December 3, 2002 EPA Region VII and mailed it on December 23, 2002. The response regarding the reopening for cause requested a 60 day extension in addition to the 90 day time frame for a proposed permit to be submitted to EPA Region VII. On January 9, 2003, APCP received a letter approving the schedule and the 60 day extension request. On January 16, 2003, a meeting scheduled with Boeing to discuss "Reopening for Cause" issues and suggested permit revisions was cancelled due to inclement weather. On January 21, 2003, the meeting was rescheduled and Boeing, EPA Region VII, St. Louis County and APCP met to discuss "reopening for cause" issues and suggested permit revisions. 35 issues were discussed in the meeting and action items were identified for Boeing, EPA Region VII, St. Louis County and APCP. A copy of the issues discussed is included in Attachment A.

On February 20, 2003, the APCP received written comments from Boeing on the proposed action regarding the reopening of the operating permits for Boeing – St. Charles and St. Louis. In addition, Boeing was sent preliminary "draft" revisions to the operating permits on March 21, 2003, June 9, 2003, July 8, 2003, and provided

written/electronic comments regarding the "drafts" on April 14, 2003 and July 14, 2003, respectively, prior to putting the "draft" permit on public notice.

While we agree that the decision to reopen the permit is subject to judicial review under 643.130, RSMo, there is no review available until after the department issues the revised permit. Regulation 10 CSR 10-6.065 (6)(E)6.D is clear that only after issuance of the revised permit is the determination to re-open the permit subject to judicial review.

Comment #3: DNR did not Comply with other Procedural Formalities for Reopening the Permit.

As noted above, Region VII determined that cause existed to reopen the permit on December 3, 2002. On December 11, 2002, DNR provided notice to Boeing that it agreed with that determination, and on December 23, 2002, DNR issued a letter to Region VII, specifically concurring that cause to reopen existed and that it was moving forward with issuance of revised Title V permit. DNR's actions in reopening the permit did not comply with its regulations. Per 10 CSR 10-6.065(6)(E)6.B, DNR was required to provide Boeing with "at least thirty (30) days prior written notice" that it "found reason to believe that a permit should be reopened for cause." Here, DNR informed Boeing of its proposed determination on December 11, 2002. Thereafter, Boeing should have received at least thirty days to provide evidence that the permit should not be reopened (i.e., that cause did not exist to reopen the permit). Instead, DNR moved ahead and on December 23, 2002 informed Region VII that it agreed with its determination that cause existed to reopen the permits. As Boeing was given less than twelve (12) days prior written notice of that determination, and as Boeing was not afforded an opportunity to present evidence that cause did not exist to reopen the permit, DNR's determination that cause existed to reopen the permit is arbitrary and capricious, an abuse of discretion, and contrary to law.

Response to Comment #3: *When reopening the Boeing operating permits for cause, the APCP invoked 10 CSR 10 6.065(6)(E)6. It is stated under 10 CSR 10-6.065(6)(E)6.B:*

"B. Notice to the permittee. If the permitting authority finds reason to believe that a permit should be reopened for cause, it shall provide at least thirty (30) day's prior written notice to the permittee, except the notice period may be less if the permitting authority finds that an emergency exists.

(I) This notice shall include a statement of the terms and conditions that the permitting authority proposes to change, delete or add to the permit. If the permitting authority does not have sufficient information to determine the terms and conditions that must be changed, deleted or added to the permit, the notice shall request the permittee to provide that information within a period of time specified in the notice, which shall not be less than thirty (30) days except in the case of an emergency.

(II) If the proposed reopening is pursuant to subparagraph (6)(E)6.A. of this rule, the permitting authority shall give the permittee an opportunity to provide evidence that the permit should not be reopened."

The December 11, 2002 letter states that the Air Pollution Control Program was in agreement with Region VII's assessment of the operating permits and was in the process of re-opening the permits. The permits were not reopened on December 11, 2002, the letter served as the required notification to the permittee. 10 CSR 10-6.065(6)(E)6.B.(I) states that the notice shall include the terms and conditions that the permitting authority proposes to change. The letter stated that the APCP agrees with Region VII's assessment

of the operating permits as issued. Therefore, the terms and conditions that the APCP proposed to change were addressed in the notice from the administrator (EPA Region VII). The notice from the administrator was made available to Boeing on December 11, 2002.

The Boeing – St. Charles permit was not officially re-opened for cause until January 22, 2003. The installation was given the opportunity to provide evidence that the permit should not be reopened between the periods of December 11, 2002 and January 22, 2003. During this time period, Boeing requested a meeting with EPA Region VII, St. Louis County Department of Health, and the APCP. The original meeting was scheduled for January 16, 2003 but was cancelled due to inclement weather. The rescheduled meeting was held on January 21, 2003. During this meeting, Boeing was given its opportunity to defend the position the permits should not be reopened for cause. Boeing provided written comments as well as discussions on the Cause for Reopening issues and Additional Recommended Permit Revisions. Boeing provided the installation's written evidence that Boeing – St. Charles permit should not be reopened. The following evidence was provided to EPA Region VII and APCP in the January 21, 2003, meeting:

> *"EPA objects that "there is no provision in the underlying regulation authorizing this permit condition which relaxes the definition of compliance." However, Boeing's reading of the Aerospace NESHAP supports inclusion of an applicable requirement that focuses on programmatic compliance with the housekeeping requirements, rather than focusing on isolated and minor deviations from the specific housekeeping practices. Boeing therefore does not agree that the cited condition is unauthorized or that the definition of compliance is relaxed.*
>
> *Specifically, under 40 CFR 63.749(c) ("Compliance dates and determinations: Cleaning Operations"), the Aerospace NESHAP defines compliance with the housekeeping emission standards and limitations as follows:*
>
> > *"Each cleaning operation subject to this subpart shall be considered in noncompliance if the owner or operator fails to institute and carry out the housekeeping measures required under 63.744(a)."*
>
> *A reasonable reading of this provision is that a facility is in compliance with the housekeeping requirements specified in 63.744(a) if it has instituted and is carrying out an effective program to ensure that the individual housekeeping measures are consistently adhered to by facility personnel. This reading of the underlying requirement provides greater environmental benefit and ensures more effective compliance with the intent of the housekeeping provisions. Those provisions can only be accomplished through training and behavior modification. The effectiveness of such training and behavior modification is best measured by frequently auditing the operations in question and instituting prompt corrective measures to reinforce the training and, through prompt correction, accomplish the desired behavior modification. Consistent with that approach, Boeing has implemented various training programs to instill the required behavior in affected personnel, and although specific monitoring is not required by the Aerospace NESHAP, with the County and DNR's approval Boeing has implemented a periodic and documented "for cause" audit process.*

These audits are complemented by a form that supervisors must sign acknowledging there has been an issue in their area and detailing any required corrective actions. We believe that these measures are consistent with the definition of compliance in 63.749(c) in that they establish a verifiable housekeeping program, and that failure to correct housekeeping issues within 24 hours, or observance of the same issue on three successive occasion is indicative of an ineffective program (i.e., a "failure to institute and carry out" the required housekeeping measures). Thus, the 24 hour/3 inspection provision provides DNR and EPA the necessary mechanism to determine whether there is an effective housekeeping program in place per 63.749(c), and if not, to institute enforcement for non-compliance."

Boeing was given 30 days to provide evidence to the regulatory agencies, and submitted information within the required time period. In addition, Boeing submitted further information and comments on February 20, 2003 and April 14, 2003. The APCP also met with Boeing on June 30, 2003 to discuss the outstanding issues. The installation has been given opportunities to voice reservations about the reopening process. Since Boeing was provided opportunities to present evidence that cause did not exist to reopen the permit, DNR's determination that cause existed to reopen the permit was neither arbitrary nor capricious, an abuse of discretion, or contrary to law.

Comment #4: No Cause Existed to Reopen the Title V Permit to Modify Permit Condition (1)(B)(1)(a)

MDNR and Region VII assert that cause exists to reopen the Boeing-St. Charles Title V permit to delete subparagraph (4) from Permit Condition (I)(B)(1)(a), which provides in full:

a) Emission Limitations:
   i) Housekeeping measures
      1. Workers shall place cleaning solvent-laden cloth, paper, or any other absorbent applicators used for cleaning in aerospace production in closed containers (such as plastic bags or step cans with the lids down) before leaving their work area. Ensure that these bags and containers are kept closed at all times except when depositing or removing these materials from the container. Use bags and containers of such design so as to contain, as practicable, the vapors of the cleaning solvent. Cotton-tipped swabs used for very small cleaning are exempt from this requirement.
      2. Store fresh and spent cleaning solvents, except semi-aqueous solvent cleaners, used in aerospace cleaning operations in closed containers.
      3. Conduct the handling and transfer of cleaning solvents to or from enclosed systems, vats, waste containers, and other cleaning operation equipment that hold or store fresh or spent cleaning solvents in such a manner that minimizes spills.
      4. Activities not conforming to the above housekeeping measures are deemed in compliance if corrected within 24 hours, unless they are observed on three (3) successive inspections.
      5.

Specifically, MDNR and Region VII claim "there is no provision in the underlying regulation authorizing this permit condition which relaxes the definition of compliance" and that "the

applicable requirements do not provide a basis for stating in the permit that a deviation must occur a specific number of times before it constitutes a violation." See Attachment A. That conclusion is unfounded, as it misinterprets the permit condition and DNR's authority to implement the underlying applicable requirement.

The permit condition at issue is derived from the Aerospace NESHAP, 40 C.F.R. Subpart GG, which Missouri has adopted by reference (with the exception of those provisions which are not delegable). See 10 CSR 10-6.075(1)(A), (4)(GG). EPA has in turn delegated to Missouri full authority, with exception of those authorities that may not be delegated, to implement and enforce the Aerospace NESHAP. See Attachment E. By this delegation, DNR is given primary authority for implementation and enforcement of the Aerospace NESHAP in Missouri. See 67 Fed. Reg. 70,170, 70,171 (November 21, 2002). Specifically, addressed by this permit condition are the housekeeping measures required for aerospace cleaning operations, which consist of work practices designed to minimize emissions from these operations. EPA has consistently stated that delegated state agencies have authority to specify how NESHAP work practices are implemented and in some cases, the authority to approve alternatives to required work practices. Most recently, EPA addressed this issue in its June 23, 2003 preamble discussion of rule amendments intended to clarify the delegated authorities under the existing NESHAP standards. There the EPA explained:

> The compliance assurance requirements are also essential, but they offer some flexibility in their implementation. For example, you can approve (or disapprove) minor and intermediate changes to testing, monitoring, reporting, and record keeping provisions as long as they are at least as stringent (or disapprove, if they are not as stringent) as EPA requirements.
> In other cases, the [delegated authority] is given authority to make changes in the implementation of a requirement, but not to change the actual requirement itself."

68 Fed. Reg. 37, 334, 37,336 (June 23, 2003). EPA went on to state:

> Under some MACTs, provisions for which you could or should have the authority to approve alternatives are written in a way that precludes you from approving alternatives to these practices. Authority to approve alternatives to work practice standards or any other emission limitation established under section 112(d) or (h) of the Act cannot be delegated to you. However some work practice requirements could be written more broadly to allow alternative practices to be implemented or these work practices could be written to expressly state that you may approve alternative practices.

68 Fed. Reg. 37, 334, 37,336-337 (June 23, 2003). Finally, EPA addressed the work practices under the cleaning operation provisions of the Aerospace NESHAP, explaining:

> We restructured the work practices in § 63.744 to give the S/L/Ts [State, Local, and Tribal authorities] greater flexibility in approving alternatives by clarifying that either the Administrator or delegated S/L/Ts may approve alternatives to the cleaning operations measures in § 63.744(a).

68 Fed. Reg. 37, 334, 37,340 (June 23, 2003). This discussion and the clarifying amendments make clear that delegated states now have and always had[1] authority to approve alternatives to the housekeeping practices contained in the cleaning operations section of the Aerospace NESHAP, as well as to specify how those housekeeping practices were to be implemented at a particular facility.

Consistent with that delegated authority, DNR (with Region VII's oversight) has included in the subject permit condition the housekeeping practices called out by the cleaning operation provisions of the Aerospace NESHAP. However, with Boeing's consent and cooperation, DNR has also chosen to direct how those housekeeping practices are to be implemented at the Boeing-St. Charles facility by including an additional requirement that Boeing periodically inspect its cleaning operations and, in subparagraph (4), requiring Boeing to timely correct observed instances where the work practices are not strictly adhered to. To the extent that timely correction is made and/or successive lapses are not observed, the effect of these conditions is to ensure that an effective housekeeping program is in place at the facility and that the housekeeping standards are being adhered to. As such, then, these permit conditions do not "relax the definition of compliance," but rather reflect DNR's policy choice as to how those work practice standards will be effectively implemented at the Boeing-St. Charles facility. Viewed in that light, no cause exists to reopen the permit, as the referenced provisions are not the result of material mistake and assure compliance with the underlying applicable requirement as implemented by DNR.

EPA's decision that the permit should be reopened on the basis set forth above appears to be little more than a late attempt by it to overrule DNR's policy choice in implementing the Aerospace NESHAP. However, DNR has exercised discretion delegated to it by EPA. EPA cannot now attack that exercise of discretion by reopening (or forcing DNR to reopen) Boeing's permit simply because EPA would have made a different choice than DNR made. Having delegated the authority to make those decisions to DNR under 40 CFR Part 63, Subpart E, EPA is now limited to the process set forth in 40 C.F.R. § 63.96 (review and withdrawal of approval) if it wants to second-guess DNR's decisions, and cannot avoid that process through use of the reopening provisions of the Title V program.

> Response to Comment #4: *Please refer to Response to Comment #1 from the February 20, 2003 letter from Yvonne Pierce of Boeing.*

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[1] In its earlier proposed rule preamble, EPA made clear that these clarifying amendments to the NESHAP delegation authorities were not intended to effect substantive changes to the delegated authorities, but rather to clearly identify what existing authorities were and had been delegated. As explained by EPA:

> None of these clarifications change any substantive requirements for sources subject to these subparts. These clarifications are intended only to allow you to clearly identify which authorities you may be delegated through 40 CFR part 63, subpart E.

67 Fed. Reg. 2286, 2287 (January 16, 2002). EPA also explained:

> In many cases, you have already accepted delegation of these NESHAP and, consequently, you are currently implementing and enforcing them. We do not believe that today's rulemaking adversely affects existing delegations of these NESHAP to you. For the most part, today's rulemaking clarifies which of the authorities in each existing NESHAP can, and cannot, be delegated to you, so that you can approve or disapprove alternative requirements. In all prior delegations, specific authorities in the NESHAP were generally not identified as being delegated. Instead, the NESHAP have been generally delegated in their entirety. . . . Therefore, today's rulemaking will not affect your existing part 63 NESHAP delegation.

Id. at 2288.

Comment #5: Insertion of Ten Day Deviation Reporting is Not Authorized and is Unwarranted. DNR has proposed insertion of a ten (10) day deviation reporting provision in Permit Condition (I)(B)(1), which relates to facility wide aerospace cleaning operations. Boeing objects to the insertion of this unauthorized and redundant reporting provision for the reasons stated below.

A. No cause existed to reopen the reporting provisions in Permit Condition (I)(B)(1). As stated previously, reopening for cause is permitted only for specified reasons. DNR has not identified any cause to reopen the reporting provision for the purpose of inserting a ten day deviation reporting requirement. Indeed, as issued, the permit condition already contains a specific deviation reporting requirement, which requires submittal of semi-annual compliance reports. See Permit Condition (I)(B)(1)(d)(1)(i)-(iii). This reporting provision derives directly from the Aerospace NESHAP, which regulates aerospace cleaning operations, and defines the level of reporting necessary to assure compliance with the Aerospace NESHAP. See 40 C.F.R. § 63.753(b)(1). Furthermore, this NESHAP derived reporting provision is supplemental to the general Title V reporting provision, which requires semi-annual deviation reporting. Given these dual reporting provisions, no additional reporting is required to assure compliance, nor has there been a material mistake which would give cause to reopen the reporting provision of this permit condition. Moreover, in its December 3rd letter, with which DNR concurred, Region VII specifically identified inclusion of any ten day deviation reporting provisions as a "recommendation" item for the St. Louis permit rather than a "for cause" item. See Attachment A. Given that no cause existed to reopen the reporting provisions of Permit Condition (I)(B)(1), DNR may not arbitrarily impose such a condition now.

B. DNR has no regulatory or statutory authority to impose a 10 day deviation reporting requirement in the permit. Missouri's Title V regulations specify all reports that are required by a Title V permit. First and foremost, 10 CSR 10-6.065(6)(C)1.C.(III) provides that the permit shall "incorporate all applicable reporting requirements." This is understood to mean all reporting requirements that derive from the underlying regulations to which the facility is subject (for example, the Aerospace NESHAP requires periodic reporting of deviations). In addition, the Missouri Title V regulations require submittal of periodic deviation reports every six months that identify all monitored deviations from the emission limitations and standards, as well as all deviations from the monitoring, recordkeeping, and reporting requirements specified in the permit. These semi-annual reports are then supplemented by more frequent reporting of deviations that result from emergency or upset conditions or that pose an imminent and substantial danger to public health or the environment. See 10-6.065(6)(C)1.C.(III)(a) and (c). Since an applicable requirement may require deviation reporting more frequently than semi-annually (for example, the NESHAPs generally require two and seven day reporting of non-compliance with startup shutdown and malfunction plans) or call out different reporting items, the Title V regulations clarify that an applicable requirement's deviation reporting requirement is also supplemental to the semi-annual reporting requirement specified in the Title V regulations. By so doing, the regulations ensure that more stringent or different reporting requirements specified by the applicable requirements are not overridden or superceded by the Title V program's semi-annual reporting provision.

Specifically, the Title V regulations provide:

> Any other deviations identified in the permit as requiring more frequent reporting than the permittee's semiannual report shall be reported on the schedule specified in the permit.

10-065(6)(C)1.C.(III)(c).III. MDNR has suggested that this provision authorizes it to unilaterally impose ten day reporting (or presumably some other frequency of reporting).

However, this provision cannot be read to provide DNR affirmative power to create substantive reporting requirements for Title V sources. It makes no reference to any independent DNR authority to impose such conditions in the permit. Rather, it refers directly to provisions already in the permit, which when read in conjunction with the overarching requirement to include all applicable reporting requirements in the permit, can only be understood to mean such provisions as have been incorporated into the permit on the basis of a pre-existing applicable requirement. To construe this provision otherwise would lead to a redundancy in the Title V reporting provisions, in that the same deviation must be reported twice (once at the whim of DNR and again when required by the Title V regulation's explicit semi-annual reporting provision). Such tortured construction of this provision is unreasonable, and the resulting redundancy can be avoided by reading the provision as referring to reporting obligations incorporated into the permit based on an underlying applicable requirement.

C. In defense of its proposed insertion of a ten day reporting requirement, DNR states that "Missouri has elected to routinely include permit conditions requiring all deviations to be reported within ten days of their occurrence." See Attachment D. However, DNR's adoption of a policy that all Title V permits contain ten day reporting requirements amounts to the adoption and imposition of a rule which under Missouri statute must be promulgated in accordance with the procedures specified in the MAPA. The MAPA broadly defines a "rule" as "any agency statement of general applicability that implements, interprets, or prescribes law or policy, or that describes the organization, procedure, or practice requirements of any agency." R.S.Mo. § 536.010(4). This has been interpreted to mean any agency statement of policy or interpretation of law of future effect which acts on unnamed and unspecified persons or facts. Breumer v. Missouri Dep't of Labor Relations, 997 S.W.2d 112 (Mo. App. 1999). Here, DNR has chosen to impose ten day reporting on all Title V sources in Missouri. That policy is therefore of general applicability and imposes substantive legal requirements on permittees, violation of which could result in severe penalties. As such, DNR's ten day reporting policy is a rule for purposes of the MAPA. Since the ten day reporting policy was not promulgated in accordance with the MAPA procedures, the policy is void. See R.S.Mo. §§ 536.014, 536.021; NME Hosps., Inc. v. Department of Social Servs., 850 S.W.2d 71, 74 (Mo. 1993). Similarly, DNR does not have authority to promulgate rules (such authority is granted to the Air Conservation Commission only), and therefore, DNR's adoption of a rule that requires ten day deviation reporting is void. See State ex rel. Royal Ins. v. Director of the State Dep't of Ins., 894 S.W.2d 159, 161 (Mo. 1995).

D. DNR's adoption of a ten day deviation reporting policy or rule is more stringent than required by the Clean Air Act and is therefore prohibited by R.S.Mo. § 643.055.1, which provides that Missouri's "standards and guidelines shall not be any stricter than those required under provisions of the federal Clean Air Act." Under the Federal Title V regulations, state operating permit programs should require semi-annual reporting of deviations, as well as provide for "prompt reporting" of deviations. See 40 C.F.R. § 70.6(a)(3)(iii)(B). With respect to "prompt reporting," section 70.6(a)(3)(iii)(B) states: "The permitting authority shall define 'prompt' in relation to the degree and type of deviation likely to occur and the applicable requirements." At the very least, this provision contemplates that the permitting authority will evaluate each potential deviation to determine the appropriate period for prompt reporting. By adopting a blanket policy that all deviations be reported within ten days, DNR has gone beyond what is required or contemplated by the Federal Title V regulations and has arbitrarily imposed a unreasonably short reporting period that does not take into account the degree or nature

of the deviation (e.g., whether excess emissions are likely to occur, whether excess emissions would be injurious or harmful, whether more frequent reporting would aid enforcement). Nor does the DNR ten day policy take into account the underlying applicable requirement. For instance, Permit Condition (I)(B)(1) derives from the cleaning operation provisions of the Aerospace NESHAP which explicitly requires semi-annual reporting of specified compliance information, including deviations. Where, as here, the applicable requirement defines a reporting period, the Federal Title V regulations on their face require no more than what is specified in the applicable requirement.

That the DNR ten day reporting provision is more stringent than that required by the Federal Title V regulations (and therefore violates R.S.Mo. § 643.055.1) is demonstrated by EPA's own implementation of the "prompt reporting" requirements in its Federal Title V operating permit program. Under the Federal Title V program (which operates in areas without an approved state operating permit program), "prompt reporting" of deviations is an explicit requirement in EPA issued Title V permits. However, the Federal Title V program regulations expressly state that periodic reporting required by an underlying applicable requirement suffices to satisfy that "prompt reporting" requirement:

> Where the underlying applicable requirement contains a definition of prompt or otherwise specifies a time frame for reporting deviations, that definition or time frame shall govern.

40 C.F.R. § 71.6(a)(3)(iii)(B). Only where the applicable requirement does not specify a time frame for reporting deviations does the Federal Title V program require "prompt reporting," and even then, the Federal Title V program differentiates reporting periods depending on the nature and degree of the relevant deviation. Specifically, the Federal Title V program regulations provide:

> Where the underlying applicable requirement fails to address the time frame for reporting deviations, reports of deviations shall be submitted to the permitting authority based on the following schedule:
> (1) For emissions of a hazardous air pollutant or a toxic air pollutant (as identified in an applicable regulation) that continue for more than an hour in excess of permit requirements, the report must be made with 24 hours of the occurrence.
> (2) For emissions of any regulated air pollutant, excluding those listed in paragraph (a)(3)(iii)(B)(1) of this section, that continue for more than two hours in excess of permit requirements, the report must be made within 48 hours.
> (3) For all other deviations from permit requirements, the report shall be contained in the report submitted in accordance with the timeframe given in paragraph (a)(3)(iii)(A) [i.e., the semi-annual reporting period].
> (4) A permit may contain a more stringent reporting requirement than required by paragraphs (a)(3)(iii)(B)(1), (2), or (3).

40 C.F.R. § 71.6(a)(3)(iii)(B). Given the Federal Title V program's implementation of the "prompt reporting" requirement (which is modeled on the requirements for state operating permit programs), it is apparent that DNR's policy of requiring ten day reporting of any and all deviations far exceeds the minimal requirements of the Federal Title V regulations and is therefore more stringent than required by the Clean Air Act.

E. DNR's ten day deviation reporting requirement is not necessary to maintain Region VII's no-deficiency determination for the Missouri Title V program. First, that

determination does not require ten day reporting as an absolute, nor does EPA pass judgment on whether less frequent reporting would suffice. Indeed, notwithstanding DNR's ten day reporting policy, the Missouri Title V regulations explicitly require two day reporting of emergency or upset conditions and "as soon as practicable" reporting of deviations that pose an imminent and substantial danger. In addition to the semi-annual reporting of all deviations, these supplemental reporting requirements satisfy EPA's prompt reporting requirements. This conclusion is reinforced by review of EPA's deficiency determinations for other state operating permit programs, from which it is apparent that states have wide latitude from EPA for meeting the "prompt reporting" requirements specified in the Federal Title V regulations. As illustrated by the following, EPA has repeatedly concluded that supplemental reporting provisions for upsets, emergencies, and imminent danger are sufficient by themselves to satisfy the prompt reporting requirements:

1. The Texas operating permit program was challenged on the basis that it only required semi-annual reporting of deviations. In response, EPA determined that the program was not deficient because the Texas program also required reporting of "upset" releases over a reportable quantity within 24 hours. EPA ruled that this provision was similar to that in the Federal Title V program, and that the combination of semi-annual reporting and upset reporting satisfied the "prompt reporting" requirements. See Attachment F at pp. 25-26.
2. The Michigan operating permit program was also challenged on the basis that it only required semi-annual reporting of deviations. Although EPA acknowledged that most deviations were only subject to semi-annual deviation reporting, EPA ruled that the program was not deficient because it also provided for two day reporting of "deviations that exceed hazardous air pollutant limits for more than one hour, or that exceed any air contaminant limits for more than two hours." EPA again believed that these additional reporting provisions were analogous to the Federal Title V program requirements and were sufficient to satisfy prompt reporting. See Attachment G at p.3.
3. In response to a challenge to the Georgia operating permit program, EPA ruled that the program was not deficient based on the permitting agency's commitment to require quarterly deviation reports (as opposed to semi-annual) "when there is reason for concern regarding a facility's ability to maintain continuous compliance." Notably, EPA also commented: "EPA believes defining 'prompt' reporting as being 'within seven days' for all deviations, as requested by the commenter, to be unnecessary." See Attachment H at p.3.
4. Responding to a challenge to the Louisiana operating permit program, EPA ruled that the program was not deficient because it required two day reporting of upsets, one hour reporting of emergency conditions, and twenty four hour reporting of other releases in excess of a reportable quantity. Although all other deviations were only subject to semi-annual deviation reporting, EPA concluded that the additional reporting was sufficiently analogous to the Federal Title V program and therefore satisfied "prompt reporting" requirements. See Attachment I at pp.3-4.

F. Ten day reporting for deviations that don't result in excess emissions is unnecessary and unduly burdensome. All deviations must be reported semi-annually. Ten day reporting of all deviations unnecessarily duplicates this semi-annual reporting requirement and diverts resources to the preparation and review of reports that for the most part describe minor, inconsequential deviations from monitoring and recordkeeping

requirements. Such reporting does not provide any tangible benefits and EPA has itself moved away from requiring reporting more frequently than semi-annually. As explained by EPA:

> The Agency now believes that the semiannual reporting frequencies contained in recently promulgated NSPS and NESHAP regulations and proposed in this rulemaking for all types of information are generally appropriate. EPA's experience over the past ten years with a variety of NSPS and NESHAP rulemakings covering industries of all types suggests that semiannual reporting provides sufficiently timely information to both ensure compliance and enable adequate enforcement of applicable requirements, while imposing less burden on the affected industry than would quarterly reporting. Recent NSPS and NESHAP rulemakings have moved almost exclusively to semiannual reporting as a standard approach. See, e.g., NSPS-40 CFR Part 60 Subpart UUU-Standards of Performance for Calciners and Dryers in Mineral Industries and NESHAP-40 CFR Part 63 Subpart O-Ethylene Oxide Emissions Standards for Sterilization Facilities.
>
> EPA sees no reason to retain different reporting frequencies in the NSPS and NESHAP General Provisions compared to the reporting frequencies contained in recently promulgated rules. Accordingly, EPA is proposing changes to the General Provisions to conform to recently promulgated NSPS and NESHAP regulations. For a typical rule, the change from quarterly to semiannual reporting results in a 20 percent reduction in reporting burden or 6 percent of the overall burden. For the approximately 3.6 million burden hours resulting from the 60 rules affected by this provision, this will result in a reduction of approximately 215,000 hours.

61 Fed. Reg. 47840, 47845(September 11, 1996). EPA reaffirmed this review as recently as 1999:

> As explained in the proposal notice (61 FR 47844), the EPA's experience over the past ten years with a variety of NSPS and NESHAP rulemakings covering industries of all types suggests that semi-annual reporting provides sufficiently timely information to both ensure compliance and enable adequate enforcement of applicable requirements, while imposing less burden on the affected industry than would quarterly reporting. Therefore, the EPA will finalize its proposal to remove § 63.10(e)(3)(i)(C), which results in a reduction of the burden for those sources who would have otherwise been affected by its requirements.

64 Fed. Reg. 7458, 7459 (February 12, 1999). Given EPA's broad experience and expertise in the area of air compliance enforcement, DNR should defer to its view of the adequacy of semi-annual reporting and reserve more frequent reporting for those deviations for which the benefit outweighs the burden of such reporting.

> Response to Comment #5: *In regards to paragraph A, please refer to the December 11, 2002 enclosure (December 3, 2002 letter from EPA Region VII) sent to Boeing. The enclosure identifies the following regarding the reopening for cause for Boeing – St. Charles and includes the reporting provisions:*
>
> > *"1. The following language, which is included in the permit on page 17 in B)1)a)(i)4., must be removed:*
> >
> > *<u>Emission Limitations</u>*
> >
> > *(1) Housekeeping measures*

(d) Activities not conforming to the above housekeeping measures are deemed in compliance if corrected within 24 hours, unless they are observed on three (3) successive inspections.

There is no provision in the underlying regulation authorizing this permit condition which relaxes the definition of compliance.

All deviations, including but not limited to those that result in an exceedance of an emissions limitation, must be reported. The federal regulation at 40 CFR § 70.6(a)(3)(iii)(A) includes the following requirement: "All instances of deviations from permit requirements must be clearly identified. . ." in the semi-annual reports. Similarly, Missouri's regulation, at 10 CSR 10-6.065(6)(C)1.C.(III)(b), requires that semi-annual reports "identify any deviations from permit requirement(s)." In addition, Paragraph V.I.C.b) of the subject permit requires that "Each semiannual monitoring report must identify any deviations from permit requirements since the previous report."

Any occurrence of an activity not conforming to the terms and conditions specified in the permit constitutes a deviation and must be reported as an instance of non-compliance with the permit. The applicable regulations do not provide a basis for stating in the permit that a deviation must occur a specific number of times before it constitutes a violation.

The requirements listed under the heading <u>Reporting</u> should also be revised to clarify that all deviations must be reported."

Therefore, as requested in the reopening for cause issue from EPA Region VII, the APCP addressed the Reporting provisions in Permit Condition I)B)1)d).

According to 10 CSR 10-6.065(6)(C)1.C.(III), the operating permit is required to contain the following:

"(III) With respect to reporting, the permit shall incorporate all applicable reporting requirements and require the following:

(a) A permit issued under these rules shall require the permittee to submit a report of any required monitoring every six (6) months. To the extent possible, the schedule for submission of these reports shall be timed to coincide with other periodic reports required by the permit, including the permittee's annual compliance certification:

(b) Each report submitted under subpart (6)(C)1.C.(III)(a) of this rule shall identify any deviations from permit requirement, since the previous report, that have been monitored by the monitoring systems required under the permit, and any deviations from the monitoring, recordkeeping and reporting requirements of the permit;

(c) In addition to the semiannual monitoring reports, each permittee shall be required to submit supplemental reports as indicated here. All reports of deviations shall identify the cause or probable cause of the deviations and any corrective actions or preventative measures taken:

III. Any other deviations identified in the permit as requiring more frequent reporting than the permittee's semiannual report shall be reported on the schedule specified in the permit;"

In addition to the state regulation, the APCP must also satisfy the federal requirements in the operating permit. The federal operating permit requirements require the following under 40 CFR §70.6(a)(3)(iii):

"(iii) With respect to reporting, the permit shall incorporate all applicable reporting requirements and require the following:

(A) Submittal of reports of any required monitoring at least every 6 months. All instances of deviations from permit requirements must be clearly identified in such reports. All required reports must be certified by a responsible official consistent with §70.5(d) of this part.

(B) Prompt reporting of deviations from permit requirements, including those attributable to upset conditions as defined in the permit, the probable cause of such deviations, and any corrective actions or preventive measures taken. The permitting authority shall define "prompt" in relation to the degree and type of deviation likely to occur and the applicable requirements."

The APCP disagrees with Boeing's interpretation of the reporting *provisions of the operating permit. The reporting provisions are required to include "all reporting requirements that derive from the underlying regulations to which the facility is subject" as well as the "prompt" reporting of deviations from permit requirements.*

The "prompt" reporting of deviations serves a very important role in protecting the public health and reducing the risk associated with industry practices. The purpose of the deviation reports is to identify areas of fluctuation with a requirement and the action taken by the installation to get the process back into compliance with a requirement. The deviation reports give the APCP the opportunity to provide constructive feedback within a short period of time for alternate compliance scenarios while a process is being repaired; or suggestions on the course of action taken to minimize emissions and get the installation back into compliance with applicable requirements.

In regards to Paragraphs B, C, D & F, Please refer to Response to Comment #1 from the April 14, 2003, Comment letter from Yvonne Pierce of Boeing. In addition, the 10 day reporting of deviations requirement is a permit condition. It is not a "statement of general applicability" that implements a prescribed policy. Consequently, rulemaking isn't necessary. The department is free to impose permit conditions without those conditions having been promulgated as rules first. In regards to paragraphs E and F, according to the March 20, 2002, EPA response to comments from The Ozark Chapter of the Sierra Club regarding deficiencies in the Missouri Title V Program with regards to prompt reporting of deviations, EPA found that Missouri's Title V program is not deficient. The reason the Missouri Title V program was not deficient is based on Missouri's routine practice of requiring all deviations to be reported within ten days of their occurrence. However, after numerous discussions with EPA and Boeing, the APCP has revisited the 10 day reporting requirement for the specific work practice standards of the Building Fugitives – Emission Unit Specific Applications (EIQ Point Number BF-STC-03 and Emission Unit Number BF-

STC-03). The procedures established by the Housekeeping measures of 40 CFR Part 63, Subpart GG are considered to be work practice standards. Work practice standards are operating procedures that an installation must adhere but contain no specific quantifiable emission limitation. Quantifiable emission limitations would contain specific limitations for criteria pollutants that include clearly defined time constraints. For example, a quantifiable limitation would be in the terms of lbs./hr, tons/month, or 12-month rolling average. Work practice standards are limitations that an installation must follow while operating, but do not contain a limit on the amount of emissions or contain a defined time constraint. Some example of work practice standards are "the installation shall use closed containers", "all personnel shall be trained once per year", "the permittee shall prepare and maintain a written work practice implementation plan", and "the permittee shall place solvent clothes in closed containers". 40 CFR Part 63, Subpart GG established the reporting requirements for the cleaning operations under §63.753(b). Under §70.6(3)(C)(iii)(B) it is stated that Title V permits shall require the prompt reporting of all deviations. However, it also states that the permitting authority shall define prompt in relation to the degree and severity of the exceedance.

> *"Prompt reporting of deviations from permit requirements, including those attributed to upset conditions as defined in the permit, the probable cause of such deviations, and any corrective actions or preventive measures taken. <u>The permitting authority shall define "prompt" in relation to the degree and type of deviation likely to occur and the applicable requirements</u>."*

The APCP has routinely defined prompt reporting in each specific "Reporting" section for all Permit Conditions in Title V permits. For units that contain quantifiable emission limitations and/or operating ranges, the APCP has determined that the installation must report all deviations within ten days of the installation's knowledge of the deviation. It is crucial for the installation to report the deviation to the APCP Enforcement section so that the APCP can ensure public health is not endangered and that corrective action is being taken. The APCP has determined that while work practice standards are important to be reported, the impact of an exceedance for these specific housekeeping measures is not as severe as a deviation from a quantifiable emission limitation since extreme amounts of excess emissions of pollutants are not introduced to the atmosphere. Deviations from the specific work practice standards for Building Fugitives – Emission Unit Specific Applications (EIQ Point Number BF-STC-03 and Emission Unit Number BF-STC-03) are basically operating protocols that are not maintained but do not result in detrimental emissions. Since the results of a digression from this specific work practice standard (Building Fugitives – Emission Unit Specific Applications (EIQ Point Number BF-STC-03 and Emission Unit Number BF-STC-03) is of a lesser degree than exceedances from quantifiable emissions, the APCP has determined that it would be justifiable for the installation to be allowed to report any departure from the standard at least semi-annually. The installation is required to report all deviations from the work practice standards of the Building Fugitives – Emission Unit Specific Applications (EIQ Point Number BF-STC-03 and Emission Unit Number BF-

STC-03 in the semi-annual monitoring report and the annual compliance certification.

Comment #6: Any Ten Day Reporting Provision Should be Conditioned on Knowledge of a Deviation

Should DNR persist in inserting a ten day reporting provision into the permit, DNR should modify the provision to make the reporting requirement expressly conditional on knowledge that a deviation or exceedance has occurred. As proposed, a deviation could occur without contemporaneous knowledge of its occurrence. In that case, Boeing could be deemed in violation of the permit should it later discover the occurrence of the deviation or exceedance through its routine compliance assessment process, but the ten day reporting period has already elapsed. For instance, Boeing may be required to compile records on a monthly basis, in the process of which Boeing may discover the occurrence of a deviation up to thirty days prior. To avoid the possibility that Boeing would be deemed out of compliance with the reporting provision in that instance, the reporting provision should be expressly conditioned on Boeing's knowledge or discovery of the deviation. Also, the reporting provision should make clear when Boeing has knowledge sufficient to trigger the requirement. For semi-annual and annual reports, Boeing is afforded two months to evaluate compliance data before making a determination that a reportable deviation has occurred. Given the complexity of Boeing's operations, the number of individuals involved, and the volume of records maintained, similar allowance should be made, and this provision should recognize some level of inquiry and evaluation by Boeing before it is deemed to have discovered or have knowledge of a deviation. The following language is proposed:

> The permittee shall report to the Air Pollution Control Program Enforcement Section, P.O. Box 176, Jefferson City, MO 65102, no later than ten days after it discovers any deviation from or exceedance of any of the terms of this permit condition, or any malfunction which causes a deviation from or exceedance of this permit condition. For purposes of this condition, permittee shall be deemed to have discovered a deviation, exceedance, or malfunction when it has knowledge of such operative facts that would lead a reasonable person upon evaluation and consideration of those facts to conclude that a deviation, exceedance, or malfunction has occurred.
>
> * * *
>
> Response to Comment #6: *The ten day deviation reports give APCP the opportunity to provide constructive feedback within a short period of time for alternate compliance scenarios while a process is being repaired; or suggestions on the course of action to get the installation back into compliance with applicable requirements.*
> *The APCP appreciates and understands the complexity of the Boeing operations. The APCP utilizes Enforcement discretion with regards to the installation being knowledgeable about a deviation. If an installation is unaware of a deviation and then notices it after the fact during a routine compliance assessment process, the installation can explain the situation in the deviation report. Therefore, no changes will be made to the operating permit as a result of this comment.*

February 20, 2003, Comments from A. Yvonne Pierce of Boeing

Comment #1: St. Louis Item 1 and St. Charles Item 1

EPA Comment: With respect to the emission limitations for handwipe cleaning operations in the St. Charles permit (Conditions (B)(1) (page 19) and (C)(1) (page 20)) and the St. Louis Permit (Conditions EU0030-001, EU0030-002 and EU0050-001), EPA objects that the following provision is not authorized by the underlying regulation and "relaxes the definition of compliance":

(1) Housekeeping measures

* * *

(d) Activities not conforming to the above housekeeping measures are deemed in compliance if corrected within 24 hours, unless they are observed on three (3) successive inspections.

Boeing Response: Boeing understands EPA's concern that this provision could be construed to excuse instance-by-instance reporting of minor, isolated housekeeping issues. However, the provision should be understood as properly implementing, consistent with the Aerospace NESHAP, an enforceable and effective housekeeping program that incorporates a robust system of training, auditing, and corrective action to instill knowledge of and adherence to the desired work practices.

In that vein, Boeing, in cooperation with the permitting authorities, has voluntarily:

- instituted various training programs that promote adherence to the desired work practices,
- agreed to self-audit its cleaning operations to gauge the effectiveness of the overall housekeeping program; and
- adopted a documented corrective action process that ensures that isolated lapses are recorded and corrected in a fashion that reinforces future adherence to those work practices.

Moreover, given the adoption of the programmatic approach described above, Boeing has chosen to apply its housekeeping program to some non-aerospace cleaning operations, which has resulted in additional environmental benefits, and has refrained from claiming the exemption from the Aerospace NESHAP's requirements provided for the handling of hazardous wastes, which would have further limited the applicability of the desired work practices.[2] In addition, Boeing has acquiesced to conservative interpretations of some housekeeping requirements, such as the phrase "upon completion of use."[3]

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[2] 40 CFR 63.741(e) exempts from all Aerospace NESHAP regulation all hazardous wastes subject to the requirements of 40 CFR 262 through 268. Boeing handles all solvent cleaning production waste generated at its facility as hazardous waste. Thus, a very large proportion of Boeing's housekeeping activities are technically not even subject to the Aerospace NESHAP.

[3] One Aerospace NESHAP housekeeping measure states that non-hazardous waste solvent-laden absorbent applicators should be placed in bags or other closed containers "upon completing their use." *See* 40 CFR 63.744(1). As discussed below in Boeing's response to EPA's St. Louis Item 3 and St. Charles Item 4, Boeing has accepted a permit condition that requires these materials to be placed in bags or containers "before leaving the work area." Because leaving the work area (for example to go to the restroom) does not indicate that the use of the materials has been completed, this permit condition is more stringent than required, but was a reasonable part of the balanced programmatic approach agreed to by Boeing and the permitting authorities.

In light of this programmatic approach to housekeeping and Boeing's willingness to broadly apply these measures to its operations, the provision to which EPA objects should merely be viewed as a measure by which the effectiveness of the Boeing program can be evaluated. Thus, failure to promptly correct issues or repetitive findings in the same area, as specified in the provision cited above, are indicative measures of non-compliance with the emission limitation, i.e., a failure to carry-out its program. EPA's action in forcing the reopening of Boeing's permits on the basis of this provision threatens this carefully and fairly structured approach.

As discussed previously at the January 21, 2003 meeting, a programmatic approach to housekeeping compliance finds support in § 63.749(c)("Compliance dates and determinations: Cleaning Operations") of the Aerospace NESHAP. That provision defines compliance with the housekeeping emissions limitations as follows:

> "Each cleaning operation subject to this subpart shall be considered in noncompliance if the owner or operator fails to institute and carry out the housekeeping measures required under 63.744(a)."

A reasonable reading of this provision, which is worded quite differently from the other provisions of § 63.749(c), is that a facility is in compliance with the housekeeping requirements specified in § 63.744(a) if it has instituted and is carrying out an effective program to ensure that the specified housekeeping measures are consistently adhered to by facility personnel. The term "institute" connotes a desire for a programmatic approach, rather than slavish focus on discrete and isolated cleaning events. Similarly, § 63.749(c) speaks to "carry[ing] out" the "housekeeping measures" in a general collective sense, suggesting again that the focus is on the presence of an effective program as a whole.[4] It bears noting that aerospace cleaning operations involve hundreds of employees and are conducted at scores of locations across the Boeing facilities, ranging from small work benches with a single operator to large aircraft nearing completion on the flight line with multiple operators. Given the multitude of personnel and activities governed by this limitation, it is appropriate to design a programmatic compliance approach that focuses on overall compliance across the spectrum of affected operations and personnel.

This reading of the underlying requirement provides greater environmental benefit and ensures more effective compliance with the intent of the housekeeping provisions. Adherence to those provisions can only be accomplished through training and behavior modification. The effectiveness of such training and behavior modification can be measured by auditing the operations in question and instituting prompt corrective measures to reinforce the training and, through prompt correction, to accomplish the desired behavior modification. Consistent with that approach, Boeing has implemented various training programs to instill the required behavior in affected personnel, and although specific monitoring is not required by the Aerospace NESHAP, with the County and DNR's approval Boeing has implemented a both a periodic and a documented "for cause" audit process. These audits are complemented by a form that supervisors must sign acknowledging any housekeeping issue in their area and

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[4] The programmatic (as opposed to instance-by-instance) approach to compliance with housekeeping measures is also supported by the reporting provisions of 40 CFR 63.753(b). While that section specifically requires that "any instance" of noncompliance with several specified requirements of the cleaning operations standard be reported, the housekeeping measures are not subject to such reporting. See also EPA's Sample Aerospace NESHAP Compliance Status Notification Report (Dec. 20, 2001) (form available for use by sources, at their option, to comply with 40 CFR 63.753(b)-(e) does not requiring any reporting or certification with regard to housekeeping measures.)

detailing any required corrective actions. We believe that these measures are consistent with the definition of compliance in § 63.749(c) in that they establish a verifiable housekeeping program, and that successive observation of instances of non-adherence to the housekeeping work practices is indicative of an ineffective housekeeping program.

In view of EPA's objection, however, Boeing proposes to clarify the above approach by inserting the following permit conditions:

Emission Limitations:

(1) Housekeeping measures .

(a) Permittee shall institute and carry out a housekeeping program that requires the following:

(i) Place cleaning solvent-laden cloth, paper, or any other absorbent applicators used for cleaning in bags or other closed containers upon completing their use. Ensure that these bags and containers are kept closed at all times except when depositing or removing these materials from the container. Use bags and containers of such design so as to contain the vapors of the cleaning solvent. Cotton-tipped swabs used for very small cleaning operations are exempt from this requirement.

(ii) Store fresh and spent cleaning solvents, except semi-aqueous solvent cleaners, used in aerospace cleaning operations in closed containers (including flip-top or squirt bottles with small openings).

(iii) Conduct the handling and transfer of cleaning solvents to or from enclosed systems, vats, waste containers, and other cleaning operation equipment that hold or store fresh or spent cleaning solvents in such a manner that minimizes spills.

(c) As part of the program required by (a) above, permittee shall conduct quarterly audits of handwipe cleaning operations to determine whether the specified work practices are being followed. During each audit, Permittee shall document any observed instance where the specified work practices are not being followed and shall provide for prompt correction. Within one week, Permittee shall re-audit any area where a previous audit documented an observed instance where the specified work practices were not being followed.

(d) If, during the re-audit of a particular area, Permittee again documents observed instances where the specified work practices were not followed, Permittee shall be deemed to have not instituted and carried out a housekeeping program in accordance with this emission limitation.

Should DNR reject the programmatic approach advocated above, it would be inappropriate to continue many of the features of the programmatic approach that have been voluntarily implemented to date. For instance, the provision that periodic audits be performed should be deleted from the permit, as such audits are not specifically required by the underlying requirements.[5] Boeing would further request that the provision be modified to clarify that the language "upon completion of use" (with respect to the requirement to place solvent

[5] In this regard, Boeing notes that the cleaning operation standards include specific monitoring requirements (other than periodic audits of housekeeping measures) and that in its CAM rulemaking and the Periodic Monitoring Guidance (which was vacated by the D.C. Circuit), EPA previously and consistently explained that post-1990 regulations such as the Aerospace NESHAP are presumed to have adequate monitoring provisions.

applications in closed container) means at the end of the shift rather than upon leaving the work area. As EPA itself notes, the underlying regulation does not use the words "before leaving their work area." Rather, this language was included as interpretive clarification, albeit conservative, from DOH and DNR, to which Boeing acquiesced in light of the other provisions that were included in the permit. However, applicators are generally not used continuously until their use is completed. They are used, then used again, and so on. Thus, the mere temporary cessation of use is not the same as the completion of use. Against this background it is impractical and unfair to expect an aerospace worker to predict the future of each applicator she uses each time she is not using it for even a moment. On the other hand, it is more practical and fair to expect the worker to get all applicators she has been using during her shift into closed containers at the end of the shift. Therefore, if DNR is unwilling to accept the programmatic approach, then Boeing would propose that the following language be added to the permits to resolve finally this interpretive issue:

> *(i) Place cleaning solvent-laden cloth, paper, or any other absorbent applicators used for cleaning in bags or other closed containers upon completing their use. Ensure that these bags and containers are kept closed at all times except when depositing or removing these materials from the container. Use bags and containers of such design so as to contain the vapors of the cleaning solvent. Cotton-tipped swabs used for very small cleaning operations are exempt from this requirement. The use of a cloth, paper or other absorbent applicator used for cleaning will not be considered to be completed until the end of the shift during which such applicator was in use. The failure to place all applicators in use during a shift into closed containers at the end of the shift is a deviation of this emission limitation.*

Response to Comment #1: *The Air Pollution Control Program (APCP) understands and appreciates both Boeing and EPA's comments on the housekeeping measures in the St. Charles and St. Louis County permits identified above. The APCP applauds Boeing on the efforts to attempt to clarify requirements and develop programmatic approaches to demonstrate compliance with applicable requirements. However, after listening to both positions, the APCP agrees with EPA Region VII that the following provision is not authorized by 40 CFR Part 63, Subpart GG, relaxes the definition of compliance and therefore, cannot be incorporated in the Part 70 operating permit.*

> *"Housekeeping measures*
> ***
> *(d)Activities not conforming to the above housekeeping measures are deemed in compliance if corrected within 24 hours, unless they are observed on three successive inspections."*

The specific activities defined above not conforming to the housekeeping measures would be deemed a deviation and possibly a violation of the permit condition. Stating a deviation is deemed compliance if corrected within 24 hours, unless deviations are observed on three successive inspections, appears to indicate the disappearance of a deviation if corrected within 24 hours. We applaud the approach to correct the deviation within a set period of time, however a deviation indicates potential non-compliance of a permit condition that should be evaluated by the APCP and/or EPA in a deviation report. Therefore, the APCP is removing (d) from the housekeeping measures defined above.

The APCP does not agree with Boeing's interpretation regarding 40 CFR Part 63, Subpart GG, §63.749(c). According to §63.749(c),

> *"Cleaning operations. Each cleaning operation subject to this subpart shall be considered in noncompliance if the owner or operator fails to institute and carry out the housekeeping measures required under §63.744(a). Incidental emissions resulting from the activation of pressure release vents and valves on enclosed cleaning systems are exempt from this paragraph."*

The regulation does not require Boeing to develop an effective program to carry out the housekeeping measures identified in §63.744(a). However, if that is Boeing's standard mode of operation regarding compliance with applicable requirements, the APCP applauds Boeing's efforts. The requirements of §63.749(c) do require Boeing to implement the following identified in §63.744(a):

> *"(a) Housekeeping measures. Each owner or operator of a new or existing cleaning operation subject to this subpart shall comply with the requirements in these paragraphs unless the cleaning solvent used is identified in Table 1 of this section or contains HAP and VOC below the de minimis levels specified in §63.741(f).*
>
> *(1) Place cleaning solvent-laden cloth, paper, or any other absorbent applicators used for cleaning in bags or other closed containers upon completing their use. Ensure that these bags and containers are kept closed at all times except when depositing or removing these materials from the container. Use bags and containers of such design so as to contain the vapors of the cleaning solvent. Cotton-tipped swabs used for very small cleaning operations are exempt from this requirement.*
>
> *(2) Store fresh and spent cleaning solvents, except semi-aqueous solvent cleaners, used in aerospace cleaning operations in closed containers.*
>
> *(3) Conduct the handling and transfer of cleaning solvents to or from enclosed systems, vats, waste containers, and other cleaning operation equipment that hold or store fresh or spent cleaning solvents in such a manner that minimizes spills."*

The APCP would prefer Boeing not stop their programmatic approach based on a difference of interpretation. Given the adoption of the programmatic approach described above, Boeing has chosen to apply its housekeeping program to some non-aerospace cleaning operations, which has resulted in additional environmental benefits, and has refrained from claiming the exemption from the Aerospace MACT requirements provided for the handling of hazardous wastes. If Boeing chooses the hazardous waste exemption from the MACT, it might relax the record keeping a little, but the RCRA hazardous regulations require hazardous waste to be stored in closed containers – which is very similar to the "work practice" requirements. The housekeeping program not only benefits the environment, it also benefits Boeing by maximizing the ability to demonstrate compliance and good faith efforts. It seems the current housekeeping program is a benefit to all parties (MDNR, EPA, Boeing and the public) and therefore should be continued. However, since the programmatic approach is not required by the regulation, the APCP cannot prevent it.

The APCP cannot accept the first proposed approach by Boeing for two reasons. The inclusion of the phrase "(including flip-top or squirt bottles with small

openings)" is unacceptable. The allowance of the installation having multiple opportunities for non-compliance with the work practices prior to the action being deemed a "deviation" is not an acceptable interpretation of the standard. Therefore, the APCP rejects Boeing's proposed interpretation, and will revise the permit condition to the following:

a) Emission Limitations:

Hand-wipe cleaning

1. Each owner or operator of a new or existing affected hand-wipe cleaning operation covered by 40 CFR Part 63, Subpart GG, shall use cleaning solvents that meet one of the following requirements:
   a. Meet (1) one of the composition requirements in section 63.744 (Table 1) of the Aerospace NESHAP.
   b. Have a composite vapor pressure of 45 mm Hg or less at 20° Celsius. (68° Fahrenheit)
   c. Demonstrate that the volume of hand-wipe cleaning solvents used in affected cleaning operations has been reduced by at least 60% from a baseline adjusted for production. The baseline shall be established as part of an approved alternative plan administered by the State.
2. The following cleaning operations are exempt from the requirements of ii) Hand-wipe cleaning:
   a. Cleaning during the manufacture, assembly, installation, maintenance, or testing of components of breathing oxygen systems that are exposed to the breathing oxygen;
   b. Cleaning during the manufacture, assembly, installation, maintenance or testing of parts, subassemblies, or assemblies that are exposed to strong oxidizers or reducers (e.g., nitrogen tetroxide, liquid oxygen, hydrazine, etc.);
   c. Cleaning and surface activation prior to adhesive bonding;
   d. Cleaning of electronic parts and assemblies containing electronic parts;
   e. Cleaning of aircraft and ground support equipment fluid systems that are exposed to the fluid, including air-to air heat exchangers and hydraulic fluid systems;
   f. Cleaning of fuel cells, fuel tanks, and confined spaces;
   g. Surface cleaning of solar cells, coated optics, and thermal control surfaces;
   h. Cleaning during fabrication, assembly, installation, and maintenance of upholstery, curtains, carpet, and other textile materials used in the interior of the aircraft;
   i. Cleaning of metallic and non-metallic materials used in honeycomb cores during the manufacture or maintenance of these cores, and cleaning of the completed cores used in the manufacture of aerospace vehicles or components;
   j. Cleaning of aircraft transparencies, polycarbonate, or glass substrates; and
   k. Cleaning and cleaning solvent usage associated with research and development, quality control, and laboratory testing.

l. Cleaning operations, using nonflammable liquids, conducted within five (5) feet of energized electrical systems. Energized electrical systems means AC or DC electrical circuit on an assembled aircraft once electrical power is connected, including interior passenger and cargo areas, wheel wells and tail sections.
m. Cleaning operations identified as essential uses under the Montreal Protocol for which the Administer has allocated essential use allowances or exemptions in 40 CFR 82.4.

b) Operational Limitations:

Housekeeping measures

Permittee shall institute and carry out a housekeeping program that requires the following:

1. Place cleaning solvent-laden cloth, paper, or any other absorbent applicators used for cleaning in aerospace production in bags or other closed containers upon completing their use. Ensure that these bags and containers are kept closed at all times except when depositing or removing these materials from the container. Use bags and containers of such design so as to contain the vapors of the cleaning solvent. Cotton-tipped swabs used for very small cleaning are exempt from this requirement.
2. Store fresh and spent cleaning solvents, except semi-aqueous solvent cleaners, used in aerospace cleaning operations in closed containers.
3. Conduct the handling and transfer of cleaning solvents to or from enclosed systems, vats, waste containers, and other cleaning operation equipment that hold or store fresh or spent cleaning solvents in such a manner that minimizes spills.

The APCP understands Boeing's concerns in regards to "upon completing their use", however the APCP does not agree with the proposed approach. The addition of the following phrase would relax the definition of compliance in regards to the phrase "upon completing their use".

> *"The use of cloth, paper or other absorbent applicator used for cleaning will not be considered to be completed until the end of the shift during which such applicator was in use. The failure to place all applicators in use during a shift into closed containers at the end of the shift is a deviation of this emission limitation.*

Since the shifts at the Boeing installation are generally 8 hour shifts and each shift has the potential to use multiple applicators, it would not be an effective work practice standard to allow solvent laden applicators the opportunity to remain open to the atmosphere during the 8 hour shift. If the operator on the Boeing shift utilized only one applicator for an 8 hour period, it would be an effective work practice standard. However, since Boeing personnel use multiple applicators per shift, this is not an acceptable interpretation of the work practice standard. The main goals of work practice standards are to minimize HAP emissions during normal operating procedures. Therefore, to maintain consistency with the compliance provisions in 40 CFR Part 63, Subpart GG, the clarification language provided by Boeing will not be included in the operating permit. The APCP will

modify the statement of basis to provide clarification in regards to the phrase "upon completion of use"..

Comment #2: St. Louis Item 3 and St. Charles Item 4

EPA Comment: EPA's objections generally reflect a view that individual permit conditions should restate the regulatory language verbatim and, particularly, that clarifying language should be removed from St. Charles permit (Conditions (B)(1) (page 19) and (C)(1) (page 20)) and the St. Louis Permit (Conditions EU0030-001, EU0030-002 and EU0050-001). Specifically, EPA objects to the underlined language quoted below:

1. *Housekeeping measures*
   a. *Workers shall place cleaning solvent-laden cloth, paper, or any other absorbent applicators used for cleaning in aerospace production in closed containers (such as plastic bags, dome top cans or step cans with the lids down) before leaving their work area. Ensure that these bags and containers are kept closed at all times except when depositing or removing these materials from the container. Use bags and containers of such design so as to contain, as practicable, the vapors of the cleaning solvent. Cotton-tipped swabs or equivalent used for very small cleaning are exempt from this requirement.*
   b. *Store fresh and spent cleaning solvents, except semi-aqueous solvent cleaners, used in aerospace cleaning operations in closed containers (such as flip-top or squirt bottles with small openings, safety cans or drums with closed bungs).*

Boeing Response: Regulations are often ambiguous and the facility and permitting agencies must regularly determine what the appropriate interpretation of a regulation is and how it applies to that facility's operations. Once these determinations have been made, incorporating those determinations in the Title V Permit allows all parties to clearly understand what the applicable requirement is and how it applies to the facility. To the extent that the relevant regulatory agencies have made determinations of applicability or provided authoritative guidance on the meaning of particular applicable requirements, such guidance and determinations should be reflected in the permit.

With respect to the phrase "(such as plastic bags, dome top cans or step cans with the lids down) before leaving their work area," Boeing would not object to removal of the parenthetical phrase, "(such as plastic bags, dome top cans or step cans with the lids down)," as it was merely intended to list the common types of containers used for inspection purposes, and removal would not adversely affect the clarity of this requirement. However, the phrase "before leaving the work area" was intended to restrict what was meant by the regulatory language "upon completing their use." When cleaning an entire aircraft, the cleaning process may take the whole shift. Does that mean "upon completing their use" is at the end of the shift? When cleaning a series of individual parts in quick succession, does "upon completing their use" mean after each part is cleaned or after all the parts are cleaned and the continuous operation ceases? These vexing questions call for clarification in the permit, and Boeing would support inclusion of the clarifying language proposed in the previous item discussion, or the original language should DNR embrace the programmatic approach discussed in that comment.

With respect to the phrase "such as flip-top or squirt bottles with small openings," Boeing does not agree with EPA's statement that "there are no provisions in the regulation allowing storage

in containers with 'small openings.'" That clarifying language was taken from the EPA's Aerospace NESHAP Q&A document which directed companies to work with their permitting authorities to clarify the closed container requirements. In an earlier version of the EPA's 10/1/98 Aerospace NESHAP Q&A, the answer to question 38 included "Examples of closed containers could include flip-top or squirt bottles with small openings, zip-lock plastic bags, drums and step-waste cans." That Q&A was later amended to read

> "...For example, if a lid is purposely propped open, that would not be considered a closed container, however, if a lid inadvertently has a small gap in the "closed" position, that would constitute a closed container. Again this is subject to the permitting authorities discretion, and it would be best to discuss any possible concerns with them."

This amended language again reflects EPA's understanding that closed containers can have small gaps and openings and still be "closed." However, recognizing that this is a fact dependent inquiry, EPA expressly left to the States the authority to determine under what circumstances a small gap or opening would be considered "closed." Based on the EPA Q&A, Boeing previously received from the County and DNR clarification that its flip-top bottles with small openings qualified as closed container and that determination is clearly documented in the Operating Permit.

Boeing is not aware of any other aerospace facility outside of EPA Region VII that has received guidance stating flip-top and squirt top bottles with small openings cannot be considered closed containers. Another aerospace facility in Region VII has been allowed to regard solvent squirt bottles with small openings as closed, as stated in a Kansas Department of Health and Environment ("KDHE") recission order (Source ID Number 1730019):

> "The EPA representative contacted other Regional Offices and determined that this type of container had been approved in another region as satisfying the requirements of 40 CFR Part 63, Subpart GG."

Given this Region VII determination, it is unfair to impose a more stringent interpretation on the Boeing facilities, thereby restricting their ability to compete on a level playing field with other aerospace manufacturing facilities.

Based on the above, Boeing requests that the permit language for both Permit No. OP1999052 and OP2001031 documents that examples of closed containers under the housekeeping measures include flip-top or squirt bottles with small openings.

Response to Comment #2: *The Air Pollution Control Program appreciates Boeing's comments on the draft operating permit which addresses the issues raised by the December 3, 2002, Re-open for Cause letter from EPA Region VII. Pursuant to 10 CSR 10-6.065(E)(7), the Missouri Department of Natural Resources is required to provide EPA with a proposed permit which contains the revisions due to the December 3, 2003 EPA Region VII Re-open for Cause letter. The Re-open for Cause letter for Boeing – St. Charles contained one Cause for Re-opening and ten Additional Recommended Permit Revisions.*

After numerous discussions between the Missouri Department of Natural Resources and Boeing, a resolution could not be reached on the ten additional recommended permit revisions. On June 30, 2003, it was determined, in a meeting with the Environmental

Protection Agency -Region VII, Boeing, St. Louis County Department of Health and the Missouri Department of Natural Resources, only the issues addressing the permits being re-opened for cause would be addressed in the permit revision.

This comment expands upon issues that are not contained in the Cause for Re-open issue from the December 3, 2002 letter from EPA Region VII. While the APCP values Boeing's comment, since the comment does not deal with the specific Re-open for Cause issue, a response to the comment will not be provided in this document. However, the APCP will consider the content of this comment during the renewal process of the operating permit for the Boeing – St. Charles installation.

Comment #3: St. Louis Item 7 and St. Charles Item 10

EPA Comment: EPA objects that the provisions of the St. Louis permit (Permit Conditions EU0060-001 and EU0100-001) relax the definition of compliance that "there is no underlying regulations that authorizes this relaxation of the definition of compliance." Specifically, EPA objects to the underlining language:

1. *Inorganic HAP Control*
   a. *Record the pressure drop (either electronically or manually) once each operating shift that inorganic HAP containing primer or topcoat is spray applied.*
      i. *The pressure drop records are deemed to be complete if 95% of the readings are recorded for all of the booths subject to this rule in any six (6) month period. If the last reading recorded correctly prior to any group of missed readings and the first reading recorded correctly after the same group of missed readings are both below the pressure drop limit, the missed readings are deemed to be below the pressure drop limit.*

Boeing Response: The intent of the provision is not to relax the definition of compliance, but rather to define what constitutes an acceptable record in those infrequent circumstances where an individual recorded electronic reading is inadvertently lost. Boeing has adopted an electronic information gathering system that continuously monitors, reads, and records the pressure drop on each affected paint booth and transmits that data to the environmental engineering department for recordkeeping and compliance purposes. Data gathered by that system and from other facilities shows that the pressure drop readings associated with the NESHAP regulated filter systems gradually increases over time in a predictably linear fashion as particulate matter builds up on the filter. Dips and spikes in the recorded readings do not generally occur.

With respect to the recordkeeping requirements, Boeing agrees that some form of record is required for every operating shift, but suggests that in the absence of a recorded electronic reading, that record can take the form of data extrapolated from electronically or manually recorded readings that do exist. In those instances where the electronic system fails to record or preserve a recorded pressure drop reading during a particular shift, based on the linear progression of the readings that are recorded, it is reasonable to fill in that data gap by extrapolating from the previously recorded reading and the subsequently recorded reading a value that would constitute the recorded value(s) for the operating shift(s). Thus, the recorded value(s) for the operating shift(s) would constitute the average of the previously recorded reading and the subsequently recorded reading. Having thereby recorded the pressure drop

reading from the operating shift(s), the facility and the regulatory agencies can determine whether an exceedance occurred and whether enforcement is warranted. Of course, gap filling is only warranted where you have sufficient, reliable data to extrapolate the values of the records that are missing.

To clarify the foregoing intent of this provision, Boeing proposes to revise the permit language to read:

> *Record the pressure drop (either electronically or manually) once each operating shift that inorganic HAP-containing primer or topcoat is spray applied. For purposes of this permit condition, in the event that pressure drop readings are not electronically or manually recorded for particular operating shifts, but the facility has electronically or manually recorded the pressure drop readings for 95% or more of the operating shifts to which this condition applies in any six (6) month period, the recorded pressure drop reading for the operating shifts for which no electronic or manual record exists shall be deemed to be and shall consist of the average value of the pressure drop reading that was electronically or manually recorded for the operating shift(s) immediately preceding and following the operating shift(s) for which no electronic or manual record(s) exists.*

Boeing notes that the electronic system does provide additional safeguards against exceedances and believes that the foregoing provision encourages use of the electronic data system. Specifically, when the pressure drop reaches 70 percent of the manufacturer recommended limits, a yellow warning light is illuminated alerting the painters and maintenance that the filters require replacement. When the pressure drop reaches 100 percent of the manufacturer recommended limits, a red warning light is illuminated. These voluntary measures afforded by our electronic equipment provide additional safeguards against exceeding pressure drop limits during coating operations.

Consider also that the requirement to continuously monitor the pressure drop across the filters is analogous to continuous emission monitoring systems (CEMS) required by other regulatory regimes, including the Acid Rain Program. CEMS are required for either continual compliance determinations or determination of exceedances of particular standards. However, the CEM rule contains procedures for filling in data when no valid hour or hours of data have been recorded by a monitor or monitoring system (see 40 CFR Part 75). The general procedure allowed for supplying missing data from CEMS in situations where 90% or more of monitoring data is available includes the averaging of real data collected before and after the missing period. We believe that these similar provisions provide additional justification for incorporating a gap filling procedure into the permit to aid determination whether there has been compliance with the NESHAP requirements.

> Response to Comment #3: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #4: St. Louis Item 9

EPA Comment: EPA states that DNR should require prompt deviations reporting within 10 days and cites language from the Federal Register to the effect that "prompt should generally be defined as requiring reporting within two to ten days of the deviation."

Boeing Response: EPA's comments did not include the full text of the Federal Register Notice from July 13, 1995 [Federal Register, Volume 60, Number 134, pages 36083-36093]. The whole paragraph is listed below:

> e. "Prompt" Reporting of Deviations. The part 70 operating permits regulation requires prompt reporting of deviations from permit requirements. Section 70.6(a)(3)(iii)(B) requires the permitting authority to define prompt in relation to the degree and type of deviation likely to occur and the applicable requirements. Although state and county permit program regulations should define prompt for purposes of administrative efficiency and clarity, an acceptable alternative is to define prompt in each individual permit. The EPA believes that prompt should generally be defined as requiring reporting within two to ten days of the deviation. Two to ten days is sufficient time in most cases to protect public health and safety as well as to provide a forewarning of potential problems. For sources with a low level of excess emissions, a longer time period may be acceptable. However, prompt reporting must be more frequent than the semiannual reporting requirement, given this is a distinct reporting obligation under Sec. 70.6(a)(3)(iii)(A). Where ``prompt'' is defined in the individual permit but not in the program regulations, EPA may veto permits that do not require sufficiently prompt reporting of deviations. Maricopa, Pima, and Pinal have not defined ``prompt'' in their programs with respect to reporting of deviations. ADEQ has defined ``prompt'' as within 2 working days of the time when the deviation occurred (R18-2-306(A)(5)(b)).

As noted by the underlined text, EPA's discussion of deviation reporting does allow more than 10 days for "prompt" reporting. While Boeing agrees that 10 day reporting may be required in some instances, where a particular source poses only a potential for low levels of excess emissions in the event of a deviation, a period greater than 10 days can be considered. The Boeing facilities are large and complex, both in their physical operations and their organizational structure (over 14,000 employees work within 9 million square feet of building space). Given this complexity, Boeing suggests a period of time that corresponds with its internal processes for identifying, assessing, and reporting deviations that result in emissions limitations exceedances. Those processes are described in the table below.

Typical Number of Work Days*	Process
5	Gather facts, get fire department report (if applicable), do initial review, discuss with area supervision, formulate corrective action plan with affected departments, draft initial report to the agency
4	Area management team review of report
2	Legal review of report
1	Environmental and Hazardous Materials Services Manager review of report
1	Safety Health and Environmental Affairs Director review of report
1	Vice President General Services review of report
1	Responsible Official review of report and signature

* The number of days can fluctuate greatly depending on the availability of people (e.g., travel, vacation, flex schedule, etc.) and does not account for weekends and holidays.

The number of days described above can fluctuate greatly depending on the availability of people (e.g., travel, vacation, flex schedule, etc.) and does not account for weekends and holidays. Boeing, therefore, requests consideration of a 20 to 30 day reporting period for those permit conditions which presently have the standard reporting paragraph. Given the type of operations and the past history of these sources, they could be classified as sources with a low level of excess emissions, for which the County and DNR have flexibility to allow a reporting period greater than 10 days. Those provisions are identified in the table below.

Permit Condition	Emission Limitations
PW002	Restricts the sulfur content of fuel oil and coal and has no requirements for propane and natural gas. (10 CSR 10-6.260)
PW003	Restriction of emission of visible air contaminants. (10 CSR 10-6.220)
PW004	Restricts fugitive particulate matter beyond the premises of origin. (10 CSR 10-6.170)
PW005	Restricts the VOC content of traffic coatings. (10 CSR 10-5.450)
EU0020-001	Restricts the VOC content of specialty coatings. (10 CSR 10-5.295)
EU0030-002	Restricts handwipe solvent cleaning housekeeping measures and vapor pressure. (10 CSR 10-5.295)
EU0040-001	Restricts operating procedures, equipment specifications, and operator/supervisor training from metal solvent cleaning operations. (10 CSR 10-5.300)
EU0060-002	Restricts emission of particulate matter from industrial sources. (10 CSR 10-5.050 This is based on a one-time compliance calculation.)
EU0060-003	Restricts VOC, HAP, and/or amount of paint that can be emitted from paint booths. (10 CSR 10-6.060)
EU0060-004	Restricts the VOC content of primer, topcoats, and specialty coatings. (10 CSR 10-5.295)
EU0080-002	Restricts the VOC and HAP content of primers and topcoats. (10 CSR 10-5.295)
EU0090-002	Restricts the maximum hourly heat input, sulfur content, nitrogen dioxide emissions, and ash content for the coal fired boiler. (10 CSR 10-6.060)
EU0110-001	Restriction of visible air contaminants from internal combustion engines. (10 CSR 10-5.180)
EU0140-003	This source no longer exists.
EU0150-001	This source now belongs to GKN.
EU0180-004	Restricts the Reid vapor pressure of gasoline in the ozone season. (10 CSR 10-5.443)
EU0200-002	Restricts operating procedures, equipment specifications, and operator/supervisor training from solvent metal cleaning operations. (10 CSR 10-5.300)

Response to Comment #4: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #5: St. Louis Item 12 and St. Charles Item 8

EPA Comment: EPA states that all construction permits should be incorporated by reference.

Boeing Response. All applicable permit requirements should be clearly listed in the Title V operating permit. Incorporating the construction permit by reference adds emission unit descriptions, estimated utilization rates, and other terms that are not permit conditions. The Title V permit should clarify compliance requirements, not add ambiguity by referencing items that are not enforceable permit conditions.

Response to Comment #5: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #6: St. Louis Item 21

EPA Comment: EPA states that the responsible official should certify all reports required by the permit.

Boeing Response: Some reports are of a minor nature (e.g., monthly coal reports) and it would be unreasonable and unduly burdensome to require the responsible official to routinely certify each such report.

Response to Comment #6: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #7: St. Louis Item 33

EPA Comment: EPA suggests that the permit address CAM.

Boeing Response: Boeing would prefer to address CAM in Operating Permit No. OP1999052 for the Boeing-St. Charles facility in this permit revision. Boeing would prefer to postpone addressing CAM in Operating Permit No. OP2001031 for the Boeing St. Louis facility until the next permit revision.

Response to Comment #7: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

April 14, 2003, Comment Letter from Yvonne Pierce of Boeing

I. PREVIOUS COMMENTS

Boeing submitted comments regarding EPA's request that permit OP1999052 be reopened for cause in its letter 464C-5371-AYP dated February 20, 2003. Boeing reiterates those comments and expressly incorporates those comments herein. Boeing would appreciate a written response to these comments.

> Response to Comments: *Please refer to Response to Comment #1-7 from the February 20, 2003 comment letter from Yvonne Pierce of Boeing.*

II. GENERALLY APPLICABLE COMMENTS

Comment #1: Supplemental Reporting Provisions

Throughout the draft permit, MDNR has inserted ten (10) day supplemental reporting provisions that similarly provide:

> "The permittee shall report to the Air Pollution Control Program Enforcement Section, P.O. Box 176, Jefferson City, MO 65102, no later than ten days after any exceedance of any of the terms imposed by this regulation, or any malfunction which could possibly cause an exceedance of this regulation."

These supplemental reporting provisions differ significantly from the supplemental reporting requirements identified in the original permit and Boeing requests that the following modifications be made:

(1) Throughout the supplemental reporting provisions in the draft permit, delete the phrase "or any malfunction which could cause an exceedance of this regulation." Boeing is unaware of any legal basis for requiring prompt reporting of "malfunctions which could possibly cause an exceedance." Absent an actual deviation from the permit requirements, section 10-6.065(6)(C)1.C.(III) of the State operating permit regulations does not require or provide for a supplemental reporting requirement in the permit. Any supplemental reporting requirements included in the permit should therefore only apply to instances where a deviation from the permit requirements has occurred.

(2) Throughout the supplemental reporting provisions in the draft permit, delete the phrases to the effect, "exceedance of any of the terms imposed by this regulation" and replace with phrases to the effect, "exceedance of the above emission limitations." Boeing understands the intent of the Title V permit is to state all requirements applicable to the facility and further understands that the supplemental reporting requirements are intended to identify deviations from permit requirements. Indeed, the federal regulations require only "prompt reporting of deviations from permit requirements." 40 C.F.R. § 70.6(a)(3)(iii)(B) (emphasis added). Reference to the regulation or matters extraneous to the permit is therefore inappropriate and potentially leads to ambiguity as to what requirements the facility is subject. Boeing recommends therefore that the supplemental reporting requirements make reference only to the permit requirements, rather than the underlying regulation or other matters.

(3) Throughout the supplemental reporting provisions in the draft permit, limit supplemental reporting, as appropriate, to deviations from the emissions limitations specified in the permit (see language in preceding comment). As proposed, the supplemental reporting provisions generally require supplemental reporting of any deviation, including minor recordkeeping issues and deviations that have no potential for excess emissions. Supplemental reporting for such deviations is unnecessary, as these matters will be identified in the semi-annual monitoring reports and as exceptions to the annual compliance certifications. More frequent reporting of such matters does not serve any legitimate administrative or environmental purpose. Moreover, preparation of supplemental reports for minor issues, requiring extended internal review and execution by the facility responsible official, will place an undue burden on the facility and divert resources from other environmental compliance efforts. EPA itself has recognized that "prompt reporting" of every deviation is not required where reporting more frequently than the semi-annual monitoring report "would provide no measurable environmental benefit, yet may be unnecessarily burdensome to the source." In re North Shore Towers Apartments, Inc., Petition Number II-2000-06, pages 18-19. Indeed, per the federal regulations, it is apparent that blanket reporting of deviations that don't involve excess emissions is not required under the supplemental or prompt reporting requirements of the Title V program. Those regulations state: "The permitting authority shall define 'prompt' in relation to the degree and type of deviation likely to occur and the applicable requirement." 40 C.F.R. § 70.6(a)(3)(iii)(B). Where the deviation is of a type and degree that does not involve excess emissions, and semi-annual or annual reporting is otherwise required, it is appropriate to defer reporting of those deviations to the semi-annual monitoring and annual compliance certification reports. To the extent, however, that deviations from emissions limitations may result in excess emissions, supplemental reporting may serve a beneficial purpose and be appropriate. Boeing therefore recommends that the supplemental reporting provisions be limited to deviations from the emissions limitations specified in the permit.

(4) Throughout the supplemental reporting provisions in the draft permit, tailor the periods for submittal of supplemental reports to reflect the degree and type of deviation that is likely to occur. As noted above, "prompt" or supplemental reporting must be defined in relation to consideration of those factors. However, DNR has proposed a blanket 10 day reporting requirements for all deviations without any apparent regard for whether ten days or a longer period is appropriate for the degree or type of deviation involved. As previously noted by Boeing in its letter 464C-5371-AYP, dated February 20, 2003, EPA has expressly recognized that longer reporting periods (i.e., greater than ten days) may be appropriate "[f]or sources with a low level of excess emissions . . . ." See Federal Register, Volume 60, Number 134, pages 36083-36093 (July 13, 1995). In addition, the size and complexity of Boeing's operations makes it difficult to comply with a blanket 10 day reporting period. Boeing therefore recommends that DNR give consideration to the degree to which deviation from a particular emission limitation will result in excess emissions and provide for a 20 to 30 day reporting period for those deviations that are likely to result only in low levels of excess emissions.

(5) With respect to supplemental reports for deviations from operations that are specifically required to be reported by the underlying regulation, delete the supplemental reporting requirement for that unit or source. Boeing notes that several of its operations are subject to stringent, detailed reporting requirements independent of the supplemental reporting requirements of the Title V program. For instance, under the Aerospace NESHAP, Boeing is required to report every six months on the VOC/HAP content of its primers and topcoats and certify that it was in compliance with the VOC/HAP content limits for those primers and

topcoats. To the extent that underlying regulation, such as the Aerospace NESHAP, specifies a periodic reporting requirement, it is appropriate to omit duplicative reporting under the supplemental reporting provisions of the Title V program. This is supported by the federal regulations which required that "prompt reporting" be "defined in relation to . . . the applicable requirement." 40 C.F.R. § 70.6(a)(3)(iii)(B). Where the applicable requirement itself defines an appropriate reporting period, that reporting requirement and period should be deemed sufficient to satisfy the Title V supplemental reporting requirements. This view is supported by several EPA decisions that recognize that more frequent deviations reporting is not required where the applicable requirement provides for specific, periodic reporting of deviations. See, e.g., In re North Shore Towers Apartments, Inc., Petition Number II-2000-06, pages 18-19; In re Lovett Generating Station, Petition No. II-2001-07, pages 12-14.

Response to Comment #1: *The APCP agrees with some of Boeing's concerns regarding malfunctions which could possibly cause an exceedance. As requested in paragraph (1) above, the supplemental reporting requirement will be modified to remove the phrase "or any malfunction which could possibly cause an exceedance" and include the phrase "or any malfunction which causes an exceedance of this regulation".*
The APCP disagrees with Boeing's interpretation regarding paragraph (2). This issue was discussed in the January 22, 2003, meeting with EPA Region VII, MDNR-APCP, St. Louis County Local Agency and Boeing. The APCP agrees the operating permit is to include all applicable requirements and supplemental reports in regards to deviations. However, the emission limitations are not the only portion of a regulation an installation must comply with. The permit condition and/or applicable requirement may establish operating parameters of process equipment and/or control devices, and monitoring/record keeping/reporting requirements to demonstrate compliance with emission limitations. Therefore, the installation needs to report deviations from emission limitations, operating parameters, monitoring, record keeping and reporting to indicate the compliance status of the installation. In addition, permit conditions reference sections of 40 CFR Part 60, 40 CFR Part 61 and/or 40 CFR Part 63 requirements. Therefore, the inclusion of the phrase "exceedance of any of the terms imposed by this regulation" is needed in the supplemental reporting requirements and will not be modified as requested. In regards to paragraph (3), the APCP disagrees with a portion of Boeing's interpretation of the EPA Order granting in part and denying in part the petition for object to the North Shore Towers Apartments, Inc Title V operating permit. According to the EPA Order Section II.G., Prompt Reporting of Deviations:

> *"The Petitioner's seventh claim is that the proposed permit does not require prompt reporting of all deviations from permit requirements as mandated by 40 CFR § 70.6(a)(3)(iii)(B).* **See** *petition at page 16. The Petitioner states that the only prompt reporting of deviations is that required by 6 NYCRR § 201-1.4, which governs unavoidable noncompliance and violations during necessary scheduled equipment maintenance, start-up/shutdown conditions and upsets or malfunctions. Thus, the Petitioner argues, any other deviations, including situations where the permittee could have avoided a violation but failed to do so, will not be reported until the 6 month monitoring report. The Petitioner alleges that 6 months cannot be considered "prompt reporting" in all cases. The provisions that govern reporting of violations are: Condition 20 of 17 the draft permit, Condition 19 of the June 22, 2000 permit, and Condition 1-2 of the August 7, 2001 permit.*

In general, EPA agrees with the Petitioner's comment. [18] *However, while Condition 1-2 of the August 7, 2001 permit refers only to unavoidable violations, prompt reporting of deviations is required by other portions of the North Shore Towers permit, as revised.*

States may adopt prompt reporting requirements for each condition on a case-by-case basis, or may adopt general requirements by rule, or both. In any case, States are required to consider prompt reporting of deviations from permit conditions in addition to the reporting requirements of the explicit applicable requirements. As discussed above, EPA does not consider reports submitted for the purpose of preserving potential claims of an excuse to meet prompt reporting requirements because these reports are optional, and they may not include all deviations, instead only those potentially unavoidable violations that the source seeks to have excused. All deviations must be reported regardless of whether the source qualifies for an excuse. Whether the DEC has sufficiently addressed prompt reporting in a specific permit is a case-by-case concern under the rules applicable to the approved program, although a general provision applicable to various situations may also be applied to specific permits as EPA has done in 40 CFR § 71.6(a)(3)(iii)(B).[19]

In the subject case, there are several provisions in the August 7, 2001 permit that appropriately require that prompt reports be made to the DEC (Conditions 1-7, 1-8, 1-19, 1-21 and 56). These relate to the daily monitoring for opacity. That is, when daily observances require that a Method 9 test be performed, and that test indicates a violation, the facility owner/operator must contact the DEC representative within one business day of the test and, upon notification, any corrective actions or future compliance schedules are to be presented to the DEC for acceptance. This is an appropriate use of the prompt reporting mechanism as it gives discretion to the DEC representative whether to require that a written timely report be filed within a relatively short time frame (in cases where the contravention is significant), or whether to defer the written report until the 6-month monitoring report. In either case, the source will provide a written report of the incident. With respect to the other applicable requirements that relate to emission limitations, reporting deviations more frequently than every 6 months or within the time frame established by the applicable requirement, whichever is sooner, is not necessary. Where stack tests are required for NOx emissions, the test protocols will set forth the reporting requirements of the test results. Normally, test results must be reported within 30-days of the test. This is also the case for the once per permit term requirement to perform a Method 9 test for opacity. Each engine-generator and boiler will also undergo annual tune-ups pursuant to NOx RACT requirements, during which adjustments will be made to optimize boiler combustion efficiency and thereby minimize emissions. Requiring the source to report the results of such tune-ups more frequently than the 6-month reporting requirement would provide no measurable environmental benefit, yet may be unnecessarily burdensome to the source. Finally, the sulfur content of the fuel-oil must be monitored by submission of a report, from the supplier to the facility, for each fuel-oil delivery. Because it is highly unlikely that fuel-oil outside of the specifications would be delivered and used, deferring the monitoring reports to the 6-month report is also appropriate in this case. Thus, EPA denies the petition on this issue. Although DEC properly applied the prompt reporting requirement in this case, EPA has addressed this issue with the DEC in order to clarify how it will properly exercise this

[19] Prompt reporting requirement applicable to sources under the federal operating permit program.

discretion. In its November 16, 2001 letter, DEC agreed that it will include a requirement for reporting deviations consistent with 6 NYCRR § 201-6.5(c)(3)(ii). Based on EPA's program review, the DEC is substantially meeting this commitment. See *note 3,* supra. *While this regulation requires inter alia that deviations be reported at least every six months, DEC stated that it will specify less than six months for "prompt" reporting of certain deviations that result in emissions of, for example, a hazardous or toxic air pollutant that continues for more than an hour above permit limits. DEC has scrutinized the procedures for prompt reporting contained in 40 CFR § 71.6(a)(3)(iii)(B), and finds these procedures to be reasonable and compatible with what is provided for in DEC regulations. Therefore, DEC is mirroring these provisions to define "prompt" reporting in permit conditions. When prompt reporting of deviations is required, the reports will be submitted to the DEC, in writing, certified by a responsible official, and in the time frame established in the permit condition. As discussed in detail in Section H, below, EPA is granting in part the NYPIRG petition for North Shore Towers. Therefore, when DEC revises the permit in response to this Order, it will also incorporate these additional prompt reporting requirements into the permit. "*

The APCP is handling the reporting of deviations similar to the EPA response to the petition. The APCP requires *installations to report within ten days of an exceedance of any of the terms imposed by this regulation, or any malfunction which causes an exceedance of this regulation. The EPA Order states, "In any case, States are required to consider prompt reporting of deviations from permit conditions in addition to the reporting requirements of the explicit applicable requirements." and "All deviations must be reported regardless of whether the source qualifies for an excuse." The APCP does not require the submission of tune-up or inspection reports unless the tune-up or inspection report indicates an exceedance of the permit terms or regulation. The APCP does not require the reporting of Method 22 or Method 9 observations unless the Method 9 observations indicate an exceedance of the permit terms or regulation. The APCP is being consistent with the EPA Order, therefore, no changes will be made to the permit conditions as requested. However, if Boeing would like specific clarification on certain reporting requirements, the APCP will be more than willing to include that in the statement of basis.*

In regards to paragraph (4), please refer to Response to Comment #2 from the February 20, 2003 comment letter from Yvonne Pierce of Boeing.

In regards to paragraph (5), the APCP disagrees with Boeing's interpretation. According to the EPA Order:

> *"States may adopt prompt reporting requirements for each condition on a case-by-case basis, or may adopt general requirements by rule, or both. In any case, States are required to consider prompt reporting of deviations from permit conditions in addition to the reporting requirements of the explicit applicable requirements."*

Therefore, if an installation deviates from the permit conditions or requirements, the installation is required to provide prompt reports. As stated previously, if Boeing would like specific clarification on certain reporting requirements, the APCP will be more than willing to include that in the statement of basis.

Comment #2: Inclusion of Recordkeeping Forms

Throughout the draft permit, DNR has made reference to DNR created recordkeeping forms, which are incorporated as attachments to the permit, and specified that Boeing shall use the referenced forms or an equivalent form to satisfy the recordkeeping requirements of the applicable requirement. While Boeing is appreciative of DNR's efforts to fashion these forms, Boeing is extremely concerned that inclusion of these forms will limit its ability to adopt efficient recordkeeping practices and respond to changes in its operations and technological improvements in data gathering and storage. As an initial matter, the phrasing in the permit appears to constrain Boeing to the use of paper "forms." No allowance is made for the use of electronic data gathering, storage and retrieval systems, which are capable of recording information required by an applicable requirement in less than tangible forms. Boeing makes wide use of such data systems, including standard Access and Excel databases, to record required information. In some instances, this data may be collected and stored by a single electronic system or database. However, in other instances, required information may be recorded and maintained by separate and independent systems and databases, which collectively satisfy the recordkeeping requirements of a particular applicable requirement. In either case, there may be no "form" maintained, although the required information is recorded, maintained, and accessible on site and may be retrieved as needed to satisfy the facility's recordkeeping needs and requirements. Any permit provision that constrains use of these systems should be deleted.

Response to Comment #2: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #3: General NESHAP Reporting Requirements

MDNR has generally referenced the general NESHAP reporting provision in 40 C.F.R. § 63.10 (a), (b), (d), and (f). To aid clarity and clearly identify the reporting requirements applicable to each unit, please list the specific reporting requirements in § 63.10 (a), (b), (d), and (f) that are applicable to the unit or source.

We have been operating under the premise that when startup, shutdown or malfunction does not result in an exceedance, no recordkeeping is required for the same policy reasons underlying the Agency's determination on SSM reporting. This premise is based on the identical treatment of reporting and recordkeeping in the March 16, 1994 preamble to the General Provisions. (59 FR 12408, 12422 Section IV.F.3 (para 2) ("When no excess emissions occur under this approach, no records or reports are required."). We would appreciate your written confirmation in our Title V permit that our understanding is agreeable to MDNR for all of our Aerospace NESHAP sources.

Response to Comment #3: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #4: Inclusion of an "Operational Limitation" Section

In some Permit Conditions a section called "Operational Limitation" is listed. What is the intent of this section? Is MDNR differentiating work practice standards from other emission limitations? For example, should the Condition EU0030-001 "Housekeeping measures" section and "Compliance-Cleaning Operations" paragraph be put into an "Operational Limitation" section?

Response to Comment #4: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #5: Aligning Aerospace NESHAP and Title V Reports

Boeing requests a change of the reporting schedule of the semiannual and annual reports required by the National Emission Standards for Aerospace Manufacturing and Rework Facilities ("Aerospace NESHAP") to align with the Title V Operating Permit reporting dates, as provided by 40 CFR §§63.10(a)(5), 63.9(i), and 40 CFR §63.753(a)(3). The General Provisions to the NESHAP regulations provide:

> If an owner or operator of an affected source in a State with delegated authority is required to submit periodic reports under this part to the State, and if the State has an established timeline for the submission of periodic reports that is consistent with the reporting frequency(ies) specified for such source under this part, the owner or operator may change the dates by which periodic reports under this part shall be submitted (without changing the frequency of reporting) to be consistent with the State's schedule by mutual agreement between the owner or operator and the State...Procedures governing the implementation of this provision are specified in §63.9(i).
>
> 40 CFR §63.10(a)(5). Additionally:
>
> Notwithstanding time periods or postmark deadlines specified in this part for the submittal of information to he Administrator by an owner or operator, or the review of such information by the Administrator, such time periods or deadlines may be changed by mutual agreement between the owner or operator and the Administrator. An owner or operator who wishes to request a change in a time period or postmark deadline for a particular requirement shall request the adjustment in writing as soon as practicable before the subject activity is required to take place...If, in the Administrator's judgement, an owner or operator's request for an adjustment to a particular time period or postmark deadline is warranted, the Administrator will approve the adjustment.
>
> 40 CFR §63.9(i)(2) and (3).

The current Aerospace NESHAP reporting periods resulted from the timing of the implementation of 40 CFR Part 63, Subpart GG and the May 1, 1999 due date of the Initial Notification of Compliance Status submittal required by that regulation and the General Provisions (40 CFR §63.9(h)). Semi-Annual reports thereafter are due on November 1 (for reporting periods covering March 1 through August 31) and May 1 (for reporting periods covering September 1 through February 28) of each year. Annual reports are due May 1 (for the March 1 through February 28 reporting periods) of each year. Boeing had previously requested permission to align the Aerospace NESHAP with the Title V reporting periods and submission dates as documented in our current Title V permit. By aligning these reports Boeing can track the relevant information and prepare the required reports in parallel. Aligning the reporting schedules enhances our efficiency and saves time and effort by allowing the preparation of reports at the same time for the same reporting periods, instead of having to duplicate work for each report. Please document reporting schedule changes in the statement of basis.

Response to Comment #5: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #6: Applicability Clarification

Prior to the section for 40 CFR Part 63 Subpart GG emission units insert a clarifying note that the requirements apply to only those processes regulated by 40 CFR subpart GG. There are many exemptions listed in § 63.741 and throughout the Aerospace NESHAP that may be too numerous to list under each emission unit. For example, a clarifying note was placed on page 26 prior to the Emission Limitation for EU0120 through EU0130-001. Please also ensure that 10 CSR 10-5.295 exemptions are listed in the permit or a clarifying note is inserted prior to these sources.

Response to Comment #6: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #7: General Construction Permit Clarifications

Please update the referenced emission units in the emission limitations for the construction permits (listed under various emission units) to reflect the current operations and permit requirements. The following units have been deleted (in letter 464C-BSS-4845 sent on November 12, 1999) and should not be referenced:

Unit Number	Construction Permit Number
CC-598-02	0396-014
CC-598-03	0396-014
MB-598-01	0396-022
OV-598-03	0396-022
OV-598-04	0396-022
OV-598-05	0396-022
SB-598-08	0396-022
SB-598-09	0396-022
Conformal Coating Process	0396-022
Ink Stamping Process	0396-022
Soldering	0396-022

Comments identifying each individual unit that has been deleted, but is listed as an emission unit in this draft operating permit are listed under the appropriate emission unit.

The current list of emission units covered by these permits (provided in letter 464C-BSS-4845 sent on November 12, 1999) is:

Unit Number	Operating Permit EU Number	Construction Permit Number
CC-505-01		0396-014
MB-505-01	EU0140	0396-022
OV-598-01	EU0380	0396-022
OV-598-02	EU0390	0396-022
SB-598-01	EU0060	0396-022
SB-598-02	EU0070	0396-022

SB-598-03	EU0080	0396-022
SB-598-04	EU0090	0396-022
SB-598-05	EU0100	0396-022
SB-599-01	EU0110	0396-022
VD-598-01	EU0370	0396-022

Please list these emission unit numbers for the applicable emission limitations. For example, Permit Condition (EU0060 through EU0110-002) currently reads:

> "*Emission Limitation:*
> The total combined emissions of volatile organic compounds (VOCs) from the following emission units shall be limited to 77.95 tons in any consecutive 12-month period: Secret Coating Booths (SB) 598-01 through SB 598-09 inclusive (EU0060 through EU0100, EU0430), SB 599-01(EU0110), and Ovens (OV) 598-01 through OV 598-05 inclusive (EU0380 through EU0420). Other points include a vapor-degreaser VD-598-01(EU0370), ink stamping process (EU0550), conformal coating process (EU0560), and various soldering processes (EU0570). (Special Condition 1)"

Please change this language to:

> "*Emission Limitation:*
> The total combined emissions of volatile organic compounds (VOCs) from the following emission units shall be limited to 77.95 tons in any consecutive 12-month period: Secret Coating Booths (SB) 598-01 through SB 598-05 inclusive (EU0060 through EU0100, EU0430), SB 599-01(EU0110), and Ovens (OV) 598-01 through OV 598-02 inclusive (EU0380 through EU0390). Other points include a vapor-degreaser VD-598-01(EU0370). (Special Condition 1)"

This change also clarifies that spray booth SB-598-06 and SB-598-07 were not covered by this permit. This is clear in the permit review, though the special permit condition language was not as clear.

We request that the letter referenced above (letter 464C-BSS-4845 sent on November 12, 1999) be incorporated by reference, as the permits were never reissued, but the information provided by the permittee was incorporated.

Construction permits are incorporated by reference. This list of permits seems to include all of the construction permits that have ever been issues to the facility including deleted permits for emission units that no longer exist. The only construction permits currently applicable to the facility are: 0396-014, 0396-022, and 0997-007. Please remove all other permits from the list of permits incorporated by reference. These other permits can be listed in the Statement of Basis that they are not included in the permit because they are no longer active.

Finally, the Monitoring/Record Keeping requirement for Construction permit 0396-022 should be identified as "Special Condition 2" in order to be consistent with identifying Special Conditions 1 and 3.

Response to Comment #7: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #8: 10 CSR 10 –6.260 (4) Footnote clarification

Each time 10 CSR 10-6.260 is listed a footnote states that 10 CSR 10-6.260(4) is state-only. The operating permit does not identify which part of the listed requirements come from that section of the rule. Please use the nomenclature of the permit to identify the state only provisions, or identify the section of the permit that is from section (4) of the rule in each location that this rule is listed.

Response to Comment #8: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #9: Operating Permit Format

It would be easier to reference provisions in the permit if the provisions had a number or letter to reference instead of bullets. (i.e.: PW001 three bullets under Emission Limitation instead of 1, 2, and 3 or A, B, and C)

Response to Comment #9: Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.

Comment #10: Facility Legal Name and Address

The legal name of this facility is "McDonnell Douglas Corporation, a wholly-owned subsidiary of The Boeing Company."

Please change the name of the installation on the cover page to "McDonnell Douglas Corporations a wholly-owned subsidiary of The Boeing Company" and the parent company to "The Boeing Company."

Please either use the full legal name in the permit, or reference an abbreviation on the cover page for the legal name. For example "McDonnell Douglas Corporation, a wholly-owned subsidiary of The Boeing Company (hereafter "Boeing")."

Please add our mailing address. The personnel responsible for environmental issues, such as Title V permitting are not located at either the installation address or the parent company address listed in the permit. Another address with our mailing address would insure correspondence is handled efficiently.

Response to Comment #10: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

II. Specific Comments to Draft Permit Conditions

Comment #11: Inclusion of Wood Furniture Manufacturing NESHAP

Boeing is an incidental wood furniture manufacturer under 40 CFR Part 63 Subpart JJ National Emission Standards for Wood Furniture Manufacturing Operations requirements. The following language is proposed to be added to the permit:

> *Permit Condition PW004*
> 40 CFR Part 63 Subpart JJ National Emission Standards for Wood Furniture Manufacturing Operations
>
> Emission Limitation:
>
> The permittee shall use no more than 100 gallons per month, on a 12-month rolling average, of finishing material or adhesives in the manufacture of wood furniture or wood furniture components.
>
> Monitoring/Record Keeping:
>
> The permittee shall maintain purchase or usage records demonstrating that the source uses no more than 100 gallons per month, on a 12-month rolling average, of finishing material or adhesives in the manufacture of wood furniture or wood furniture components.
>
> Reporting:
>
> No additional reporting requirements exist except as provided in Section IV (relating to Title V Core Permit Requirements) and Section V (relating to Title V General Permit Requirements).
>
> Response to Comment #11: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #12: Page 10, Condition PW001

With respect to the third bullet of the Emission Limitation section, Boeing recommends that the language be modified to clarify that the Director is charged with determining non-compliance. Boeing recommends the following language, which tracks the language of the underlying regulation:

> "Should the director determine that noncompliance with the Emission Limitation has occurred, the director may require reasonable control measures, as may be necessary."

With respect to the Monitoring section, Boeing recommends deletion of the sentence that specifies corrective action to eliminate violations. This provision is not a monitoring requirement and is duplicative of the previously discussed provision in the Emission Limitation section, which specifies the corrective action requirements of the facility when non-compliance is identified. Boeing recommends a monthly monitoring frequency, with provision for weekly observations upon observation of visible fugitive particulate matter emissions beyond the fence line. The following language is proposed:

> *Monitoring:*

- Observations of visible fugitive particulate matter emissions from the facility must be made once per month. If monthly observations identify visible fugitive particulate matter emissions from the facility in the ambient air beyond the facility property line, weekly observations shall be conducted until weekly observations identify no visible fugitive particulate matter emission from the facility in the ambient air beyond the facility property line.

With respect to the Recordkeeping section, Boeing requests that recordkeeping be limited to recording of monitoring results (i.e., whether visible fugitive particulate matter was observed beyond the property line or not) and completion of corrective actions required by the director. As proposed in the draft permit, Boeing would be required to maintain records of any visible air emission that go beyond the property line, regardless of whether it involves visible fugitive particulate matter. Such records are unnecessary and do not aid compliance assurance for the facility. In addition, the proposed language requires records of any equipment "malfunctions that could cause an exceedance." Given the complexity of the facility's operations, a multitude of equipment malfunctions would potentially be subject to this requirement regardless of whether an exceedance in fact occurred. Such a recordkeeping requirement would place an undue burden on the facility, and would not provide any measurable improvement in compliance assurance at the facility. Finally, the requirement to characterize each visible emission as "normal" or not serves no legitimate purpose (presumably, any non-compliant emissions should not be considered "normal"). Accordingly, Boeing proposes the following Recordkeeping provision:

Record Keeping:
Permittee shall record:
- The date and time of each observation required by the Monitoring section above.
- For each observation, whether visible fugitive particulate matter emissions from the facility were observed in the ambient air beyond the facility property line;.
- Any corrective actions required by the director in accordance with the Emission Limitation above.

Response to Comment #12: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #13: Page 11, Permit Condition PW002, Emission Limitation

For the St. Louis Metropolitan Area the "Exception" limit should be 40% instead of 60%, but also should include a second exception as follows:

> Existing sources in the St. Louis metropolitan area that are not incinerators and emit less than twenty-five (25) lbs/hr of particulate matter shall be limited to forty percent (40%) opacity.

Please add the following exemptions listed in the rule:

> (A) Internal combustion engines operated outside the St. Louis metropolitan areas and stationary internal combustion engines operated in the St. Louis metropolitan areas;
> (B) Wood burning stoves or fireplaces used for heating;
> (C) Fires used for recreational or ceremonial purposes or fires used for the noncommercial preparation of food by barbecuing;

(D) Fires used solely for the purpose of fire-fighter training;
(G) Truck dumping of nonmetallic minerals into any screening operation, feed hopper or crusher;
(H) Emission sources regulated by 40 CFR part 60 and 10 CSR 10-6.070;
(I) Any open burning that is exempt from applicable open burning rules 10 CSR 10-2.100, 10 CSR 10-3.030, 10 CSR 10-4.090 and 10 CSR 10-5.070; and"

Response to Comment #13: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #14: Page 11, Condition PW002, Monitoring

Provisions imply that every time the permit is issued, monitoring will revert to weekly. Boeing-St. Charles has been issued a permit and is on a monthly inspection schedule. It seems arbitrary to require the facility to revert to weekly monitoring every time the permit is reissued, even if there have been no exceedances.

This new draft permit changes the monitoring requirement. Currently we do "visible emissions inspections" monthly. If the inspectors observe any visible emissions a Method 9 opacity reading is performed.

This new draft permit proposes periodic Method 22 monitoring. If the person performing the monitoring perceives, or believes any emissions are above the limits, then a Method 9 is to be performed.

Boeing objects to this change. Method 22 does not determine an opacity level. It is used to determine the frequency or length of time emissions are visible and is not intended for the type of units that will be monitored at Boeing's St. Charles facility. See 1.0 and 2.0 of Method 22 (excerpted in Appendix).

The length of time emissions are visible can not be used to determine what the opacity is. Therefore, this test is not appropriate to determine the opacity from units at the facility. In addition, the proposed language requires training in how to take the readings, but no training on what the opacity scale is, or how to determine what the opacity is once a visible emission is observed, but a Method 9 test is only required if they perceive or believe the emissions to exceed a limit that they are not required to have experience with.

Also, the Method 22 test requires testing over a length of time (6 minutes) and requires periodic rest periods. This is overly burdensome for a facility such as Boeing, where units are spread across large areas and reading would be required at many different locations. In addition, while 6 minutes must be used to perform a Method 9 test it does not have any relevance to a true visible emissions inspection. Spending 6 consecutive minutes observing an area of the facility every month does not provide more assurance of compliance than taking the time to observe the same area of the facility and see if there are any visible emissions once per month. See 11.0 of Method 22 (excerpted in Appendix).

The current requirements of Permit OP1999052 provide a better assurance of compliance and allow the facility to perform the inspections more efficiently. As currently written all regulated

visible emissions will receive a Method 9 test, but for areas that have no visible emissions, unnecessary time will not be spent.

Please clarify by changing the wording as follows:

Monitoring:

- The permittee shall conduct opacity readings on a plantwide basis. At a minimum the observer should be trained and knowledgeable about the effects on visibility of emissions caused by background contrast, ambient lighting, observer position relative to lighting, wind and the presence of uncombined water. Readings are only required when the emission unit is operating and when the weather conditions allow. If no visible or other significant emissions are observed, then no further observations are required. For emission units with visible emissions, a source representative would then conduct a Method 9 observation using a certified Method 9 observer.

  The following monitoring schedule must be maintained:

  - Observations must be made once per month. If an exceedance is noted, monitoring reverts to --
    - Weekly observations shall be conducted for a minimum of eight (8) consecutive weeks. Should no exceedance of this regulation be observed during this period then-
    - Observations must be made once every two weeks for a period of eight (8) weeks. If an exceedance is noted, monitoring reverts to weekly. Should no exceedance of this regulation be observed during this period then observations revert to monthly.

Response to Comment #14: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #15: Page 11, Condition PW002, Record Keeping

Keeping records of all equipment malfunctions for the entire plant is overly burdensome for a large facility. These records do not help to assure compliance with this regulation and, therefore, should not be put into the operating permit.

Requiring the permittee to document if the visible emissions were normal is unnecessary. This does not help to assure compliance with this regulation and, therefore, should not be put into the operating permit.

Please change the wording as follows

Record Keeping:

- The permittee shall maintain records of all observation results, noting:
  1. Whether any air emissions (except for water vapor) were visible from the emission units, and
  2. All emission units from which visible emissions occurred.
- The permittee shall maintain records of any USEPA Method 9 opacity test performed in accordance with this permit condition.

Response to Comment #15: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #16: Page 11, Permit Condition PW003, Emission Limitation

Boeing cannot control what other people in the St. Louis metropolitan area do. Please change the phrase "No person shall supply…" to "The permittee shall not supply…".

Response to Comment #16: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #17: Page 12, Condition PW003, Monitoring & Recordkeeping

There is no requirement to monitor (especially not daily) nor mention of application rate in 10 CSR 10-5.450. Please reword the monitoring and recordkeeping conditions as follows

Monitoring/Record Keeping

The permittee shall maintain records of the VOC content of traffic coatings used for a minimum of five (5) years. Material Safety Data Sheets (MSDS) or purchasing records showing the VOC content of the traffic coatings used will be kept. These records shall be made available to the Air Pollution Control Division immediately upon request.

Response to Comment #17: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #18: Page 12, Condition PW003, Reporting

The reporting condition refers to opacity.

Response to Comment #18: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #19: Page 12, Unit EU0010

With respect to the emission unit description, please change the description to Various Hand Application Processes. This emission unit encompasses various activities that occur throughout the facility, including but not limited to cleaning/hand wipe activities, flush cleaning, and specialty coating applications (such as sealants and adhesives).

With respect to the permit condition, Boeing has given consideration to MDNR and EPA's suggestion to streamline the applicable requirements of the Aerospace NESHAP and the Missouri Aerospace RACT rule. With respect to building fugitives, there appears to be great overlap between the two requirements, with the notable exception of the application of specialty coatings such as adhesives and sealants on the shop floor. Boeing believes that the NESHAP and RACT provisions for fugitive emissions can be streamlined, so long as the specialty coating requirements are

clearly called out, and proposes the following streamlined provision. Boeing would anticipate that the proposed language below will be further revised to reflect the comments provided in Boeing's letter 464C-5371-AYP, dated February 20, 2003.

EU0010 Various Hand Application Processes

General Description:	Various Hand Application Processes
Manufacturer/Model #:	N/A
EIQ Reference # (2001):	EP#BF-STC-03

Permit Condition EU0010-001
10 CSR 10-6.075 Maximum Achievable Control Technology Regulations 40 CFR Part 63, Subpart GG National Emission Standards for Aerospace Manufacturing and Rework Facilities 40 CFR Part 63, Subpart A General Provisions 10 CSR 10-5.295 Control of Emissions from Aerospace Manufacturing and Rework Facilities

Emission Limitation:

A. Housekeeping Measures - The permittee shall comply with the following requirements:
   1. Place cleaning solvent-laden cloth, paper, or any other absorbent applicators used for cleaning in bags or other closed containers upon completing their use. Ensure that these bags and containers are kept closed at all times except when depositing or removing these materials from the container. Use bags and containers of such design so as to contain the vapors of the cleaning solvent. Cotton-tipped swabs used for very small cleaning are exempt from this requirement.
   2. Store fresh and spent cleaning solvents, except semi-aqueous solvent cleaners, used in aerospace cleaning operations in closed containers.
   3. Conduct the handling and transfer of cleaning solvents to or from enclosed systems, vats, waste containers, and other cleaning operation equipment that hold or store fresh or spent cleaning solvents in such a manner that minimizes spills.

B. Hand-wipe cleaning - The Permittee shall comply with the following requirements:
   1. The permittee shall use cleaning solvents that meet one of the following requirements:
      a. Meet (1) one of the composition requirements in Table 1 of §63.744.
      b. Have a composite vapor pressure of 45-mm Hg (24.1 in. H_2O) or less at 20° Celsius. (68° Fahrenheit).
      c. Demonstrate that the volume of hand-wipe cleaning solvents used in affected cleaning operations has been reduced by at least 60% from a baseline adjusted for production. The baseline shall be established as part of an approved alternative plan administered by the State.
   2. The following cleaning operations are exempt from this permit condition:

a. Cleaning during the manufacture, assembly, installation, maintenance, or testing of components of breathing oxygen systems that are exposed to the breathing oxygen;
b. Cleaning during the manufacture, assembly, installation, maintenance or testing of parts, subassemblies, or assemblies that are exposed to strong oxidizers or reducers (e.g., nitrogen tetroxide, liquid oxygen, hydrazine, etc.);
c. Cleaning and surface activation prior to adhesive bonding;
d. Cleaning of electronic parts and assemblies containing electronic parts;
e. Cleaning of aircraft and ground support equipment fluid systems that are exposed to the fluid, including air-to air heat exchangers and hydraulic fluid systems;
f. Cleaning of fuel cells, fuel tanks, and confined spaces;
g. Surface cleaning of solar cells, coated optics, and thermal control surfaces;
h. Cleaning during fabrication, assembly, installation, and maintenance of upholstery, curtains, carpet, and other textile materials used in the interior of the aircraft;
i. Cleaning of metallic and non-metallic materials used in honeycomb cores during the manufacture or maintenance of these cores, and cleaning of the completed cores used in the manufacture of aerospace vehicles or components;
j. Cleaning of aircraft transparencies, polycarbonate, or glass substrates; and
k. Cleaning and cleaning solvent usage associated with research and development, quality control, and laboratory testing.
l. Cleaning operations, using nonflammable liquids, conducted within five (5) feet of energized electrical systems. Energized electrical systems means AC or DC electrical circuit on an assembled aircraft once electrical power is connected, including interior passenger and cargo areas, wheel wells and tail sections.
m. Cleaning operations identified as essential uses under the Montreal Protocol for which the Administrator has allocated essential use allowances or exemptions in 40 CFR 82.4

C. Specialty Coating Application - The permittee shall comply with the following requirements:
1. Specialty coatings, as defined in 10CSR10-5.295(2)(A), applied to aerospace vehicles or components shall not exceed the VOC content limits listed in Table 1, of 10 CSR 10-5.295, expressed in pounds per gallon of coating, excluding water and exempt solvent.
2. The emission limitation for specialty coatings shall be achieved by:
a. The application of low solvent coating technology where each and every coating meets the specified applicable limitation expressed in pounds of VOC per gallon of coating, excluding water and exempt solvents, stated in subsection of 10 CSR 10-5.295 (3)(A);
b. The application of low solvent coating technology where the monthly volume-weighted average VOC content of each specified coating type meets the specified applicable limitation expressed in pounds of VOC per gallon of coating, excluding water and exempt solvents, stated in subsection (3)(A) of 10 CSR 10-5.295; averaging is not allowed for specialty coatings, and averaging is not allowed between primers, topcoats (including self-priming

topcoats), Type I milling maskants, and Type II milling maskants or any combination of the above coating categories; or

c. Control equipment, including but not limited to incineration, carbon absorption and condensation, with a capture system approved by the director, provided that the owner or operator demonstrates, in accordance with subsection (5)(C), that the control system has a VOC reduction efficiency of eighty-one (81%) or greater.

D. Flush Cleaning - For each aerospace manufacturing and/or rework operation that includes a flush cleaning operation, permittee shall empty the used cleaning solvents each time aerospace parts or assemblies, or components of a coating unit with the exception of spray guns are flush cleaned into an enclosed container or collection system that is kept closed when not in use or into a system with equivalent emission control approved by the director. Aqueous, semi-aqueous, and low vapor pressure hydrocarbon based solvent materials are exempt form the requirements of this subsection.

E. Cleaning Operations - Each cleaning operation subject to this subpart shall be considered in noncompliance if the permittee fails to institute and carry out the housekeeping measures required under this permit condition. Incidental emissions resulting from the activation of pressure release vents and valves on enclosed cleaning systems are exempt from this paragraph.

F. Hand-wipe cleaning - An affected hand-wipe cleaning operation shall be considered in compliance when all hand-wipe cleaning solvents, excluding those used for hand cleaning of spray gun equipment under Permit Condition EU0030, meet either the composition requirements specified in this permit condition or the vapor pressure requirement specified in this permit condition.

Monitoring:

- Compliance with the hand-wipe cleaning solvent composition requirements shall be demonstrated using data supplied by the manufacturer of the cleaning solvent. The data shall identify all components of the cleaning solvent and shall demonstrate that one of the approved composition definitions is met.
- The composite vapor pressure of hand-wipe cleaning solvents used in a cleaning operation subject to this permit condition shall be determined as follows:
  1. For single-component hand-wipe cleaning solvents, the vapor pressure shall be determined using MSDS or other manufacturer's data, standard engineering reference texts, or other equivalent methods.
  2. The composite vapor pressure of a blended hand-wipe solvent shall be determined by quantifying the amount of each organic compound in the blend using manufacturer's supplied data or a gas chromatographic analysis in accordance with ASTM E 260-91 and by calculating the composite vapor pressure of the solvent by summing the partial pressures of each component. The vapor pressure of each component shall be determined using manufacturer's data, standard engineering reference texts, or other equivalent methods. The following equation shall be used to determine the composite vapor pressure:

<< OLE Object: Microsoft Equation 3.0 >>

Where:

W_i = Weight of the "i"th VOC compound, grams.
W_w = Weight of water, grams.
W_e = Weight of non-HAP, nonVOC compound, grams.
MW_i = Molecular weight of the "i"th VOC compound, g/g-mole.
MW_w = Molecular weight of water, g/g-mole.
MW_e = Molecular weight of exempt compound, g/g-mole.
PP_c = VOC composite partial pressure at 20 °C, mm Hg.
VP_i = Vapor pressure of the "i"th VOC compound at 20 °C, mm Hg.(§63.750(b))

Record Keeping:

- The permittee shall fulfill all recordkeeping requirements in §63.10 (a), (b), (d), and (f).
- The permittee shall record the information specified below:
  1. The name, vapor pressure, and documentation showing the organic HAP constituents of each cleaning solvent used for affected cleaning operations at the facility.
  2. For each cleaning solvent used in hand-wipe cleaning operations that complies with the composition requirements in this permit condition or for semi-aqueous cleaning solvents used for flush cleaning operations:
     a. The name of each cleaning solvent used;
     b. All data and calculations that demonstrate that the cleaning solvent complies with one of the composition requirements; and
     c. Annual records of the volume of each solvent used, as determined from facility purchase records or usage records.
- For each cleaning solvent used in hand-wipe cleaning operations that does not comply with the composition requirements in this permit condition, but does comply with the vapor pressure requirement in this permit condition:
  1. The name of each cleaning solvent used;
  2. The composite vapor pressure of each cleaning solvent used;
  3. All vapor pressure test results, if appropriate, data, and calculations used to determine the composite vapor pressure of each cleaning solvent; and
  4. The amount (in gallons) of each cleaning solvent used each month at each operation.
- For each cleaning solvent used for exempt hand-wipe cleaning operations specified in this permit condition that does not conform to the vapor pressure or composition requirements of this permit condition:
  1. The identity and amount (in gallons) of each cleaning solvent used each month at each operation; and
  2. A list of the processes set forth in this permit condition to which the cleaning operation applies.

  10 CSR 10-5.295 (4)(B)(1) coating records requirement and 10 CSR 10-5.295 (4)(B)(2)(A) aqueous/semi-aqueous requirements

Reporting:

- Except with respect to the application of specialty coatings, the permittee shall submit the following information:
  1. Semiannual reports occurring every six (6) months from the date of the notification of compliance status that identify:

a. Any instance where a non-compliant cleaning solvent is used for a nonexempt hand-wipe cleaning operation;
b. A list of any new cleaning solvents used for hand-wipe cleaning in the previous six (6) months and, as appropriate, their composite vapor pressure or notification that they comply with the composition requirements specified in §63.744(b)(1);
c. If the operations have been in compliance for the semiannual period, a statement that the cleaning operations have been in compliance with the applicable standards. Sources shall also submit a statement of compliance signed by a responsible company official certifying that the facility is in compliance with all applicable requirements.

Response to Comment #19: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #20: Page 12-13, Permit Condition EU0010-001, Emission Limitation

Boeing reiterates the comments in its letter 464C-5371-AYP dated February 20, 2003 to MDNR that the permit should define ambiguous terms to aid clarity and compliance with the permit condition. In particular, Boeing requested that the permit condition include definitions of "closed" and "completion of use" for purposes of this emission limitation. While Boeing stands by its comments in its letter 464C-5371-AYP dated February 20, 2003, Boeing proposes at a minimum that the following provisions be added to the Emission Limitation section to clarify the meaning of these terms:

"The use of a cloth, paper or other absorbent applicator used for cleaning will not be considered to be completed until the end of the shift during which such applicator was in use. The failure to place all applicators in use during a shift into closed containers at the end of the shift is a deviation of this emission limitation."

"Squirt bottles and flip top containers with small openings are closed containers for purposes of this permit condition."

Response to Comment #20: *Please refer to Response to Comment #2 from the February 20, 2003, comment letter.*

Comment #21: Page 15, Condition EU0010-001, Recordkeeping

Random monthly inspections are not required by 40 CFR Part 63, Subpart GG. Boeing would prefer to continue the programmatic approach as described in Boeing letter 464C-5371-AYP dated February 20, 2003 to MDNR, but have received no response from MDNR with regard to this topic. In light of the absence of information, please delete the following bullet.

- Records of the random monthly inspections will be maintained.

Response to Comment #21: *Please refer to Response to Comment #2 from the February 20, 2003, comment letter.*

Comment #22: Page 15, Condition EU0020 through EU0030

Boeing appreciates MDNR's efforts to streamline the permit, but due to the differing regulatory requirements, Cold Cleaners and Spray Gun Cleaners should be separated. 40 CFR Part 63, Subpart GG does not apply to cold cleaners. Also, all of our cold cleaners (with one exception addressed separately) are aqueous.

Response to Comment #22: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #23: Page 15, Condition EU0030-002

Boeing notes that these spray gun cleaners are covered by both the Aerospace NESHAP and the Aerospace RACT rule. As discussed above, Boeing has given consideration to MDNR and EPA's suggestion to streamline the applicable requirements of the Aerospace NESHAP and the Missouri Aerospace RACT rule. Since there appears to be great overlap between the requirements for spray gun cleaners, Boeing believes that the NESHAP and RACT provisions can be streamlined along the lines proposed for Building Fugitive Activities, EU0010.

Response to Comment #23: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #24: Page 19, Permit Condition (EU-0060 through EU0110)-002

As discussed previously, Boeing has given consideration to MDNR and EPA's suggestion to streamline the applicable requirements of the Aerospace NESHAP and the Missouri Aerospace RACT rule. With respect to coatings operations, there appears to be great overlap between the two requirements, with the notable exception of the application of specialty coatings. Boeing believes that the NESHAP and RACT provisions for coating operations can be streamlined, so long as the specialty coating requirements are clearly called out, and proposes that the permit conditions for Aerospace NESHAP and Aerospace RACT requirements be streamlined into one provision along the lines proposed for Building Fugitive Activities and Spray Gun Cleaning. Boeing would anticipate that the streamlined language would also reflect the comments provided in Boeing's letter 464C-5371-AYP, dated February 20, 2003. In addition, Boeing has additional specific comments to the proposed language which are presented below.

Response to Comment #24: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #25: Page 19, Permit Condition (EU-0060 through EU0110)-002, Emission Limitation

The paragraph starting "*Compliance Methods*" is not worded correctly. Please reword "...the following methods either in by themselves or in conjuction..." to "...the following methods either by themselves or in conjuction..."

Response to Comment #25: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #26: Page 19, Condition EU0060 through EU0110-002, Emission Limitations

Boeing does not have a control system and does not anticipate the need to use a control system in the future. Therefore, Boeing recommends deletion of the following bullet.

- *Controlled coatings – control system requirements.* Each control system shall reduce the operation's organic HAP and VOC emissions to the atmosphere by 81% or greater, taking into account capture and destruction or removal efficiencies, as determined using the procedures in §63.750(h) when a control device other than a carbon absorber is used. (§63.745(d))

Response to Comment #26: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #27: Page 19, Permit Condition (EU-0060 through EU0110)-002, Emission Limitation

The sections following the paragraph starting "*Compliance Methods*" are formatted such that it is unclear which of them are under that section and which are new sections.

Response to Comment #27: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #28: Page 19, Permit Condition (EU-0060 through EU0110)-002, Emission Limitation

There is an excess bullet prior to the "Inorganic HAPs-" section.

Response to Comment #28: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #29: Page 19, Condition EU0060 through EU0110-002, Emission Limitations

Delete the following:

The primer application is considered in compliance when the conditions specified in paragraphs (1) to (2) below are met. Failure to meet any one of the conditions identified in these paragraphs shall constitute noncompliance. (§63.749(d)(3))

(1) The overall control system efficiency, Ek, as determined using the procedure specified in §63.750(h) for control systems with control systems other than carbon absorbers, is equal to or greater than 81% during initial performance test and any subsequent performance test; (§63.749(d)(3)(ii)(A))

(2) Operates all application techniques in accordance with the manufacture's specifications or locally prepared operating procedures, whichever is more stringent. (§63.749(d)(3)(iv))

The topcoat application operation is considered in compliance when the conditions specified in paragraphs (1) through (2) are met. Failure to meet any of the conditions identified in these paragraphs shall constitute noncompliance. (§63.749(d)(4))

(1) The overall control system efficiency, Ek, as determined using the procedures specified in §63.750(h) for control systems with control devices other than carbon absorbers, is equal to or greater than 81% during initial performance test and any subsequent performance test; (§63.749(d)(4)(ii))
(2) Operates all application techniques in accordance with the manufacture's specifications or locally prepared operating procedures, whichever is more stringent. (§63.749(d)(4)(iv))

And insert the following

The primer application is considered in compliance when the conditions specified in paragraphs (1) through (3) below are met. Failure to meet any one of the conditions identified in these paragraphs shall constitute noncompliance. (§63.749(d)(3))
(1) All values of H(i) and H(a) (as determined using the procedures specified in §63.750(c) and (d)) are less than or equal to 350 grams of organic HAP per liter (2.9 lb/gal) of primer (less water) as applied, and all values of G(i) and G(a) (as determined using the procedures specified in §63.750(e) and (f)) are less than or equal to 350 grams of organic VOC per liter (2.9 lb/gal) of primer (less water and exempt solvents) as applied.
(2) Uses an application technique specified in §63.745(f)(1)(i) through (f)(1)(ix).
(3) Operates all application techniques in accordance with the manufacturer's specifications or locally prepared operating procedures, whichever is more stringent.
The topcoat application operation is considered in compliance when the conditions specified in paragraphs (1) through (3) are met. Failure to meet any of the conditions identified in these paragraphs shall constitute noncompliance. (§63.749(d)(4))
(1) All values of H(i) and H(a) (as determined using the procedures specified in § 63.750(c) and (d)) are less than or equal to 420 grams organic HAP per liter (3.5 lb/gal) of topcoat (less water) as applied, and all values of G(i) and G(a) (as determined using the procedures specified in § 63.750(e) and (f)) are less than or equal to 420 grams organic VOC per liter (3.5 lb/gal) of topcoat (less water and exempt solvents) as applied.
(2) Uses an application technique specified in §63.745(f)(1)(i) through (f)(1)(ix).
(3) Operates all application techniques in accordance with the manufacturer's specifications or locally prepared operating procedures.

Response to Comment #29: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #30: Page 20, Condition EU0060 through EU0110-002, Emission Limitations

Remove requirements that do not apply and add additional applicable regulatory language. In addition, Boeing has identified painting operations where it is not technically feasible to paint the parts in a booth. Delete the following:

3. If the pressure drop across the dry particulate filter system, as recorded pursuant to §63.752(d)(1), is outside the limit(s) specified by the filter manufacture or in locally prepared operating procedures, shut down the operation immediately and take corrective action. If the water path in the waterwash system fails the visual continuity/flow characteristics check, or the water flow rate recorded pursuant to §63.752(d)(2) exceeds

the limit(s) specified by the booth manufacture or in locally prepared operating procedures, or the booth manufacture's or locally prepared maintenance procedures for the filter or waterwash system have not been performed as scheduled, shut down the operation immediately and take corrective action. The operation shall not be resumed until the pressure drop or water flow rate is returned within specified limits(s). (§63.745(g)(3))

Replace with:

3. If the pressure drop across the dry particulate filter system, as recorded pursuant to § 63.752(d)(1), is outside the limit(s) specified by the filter manufacturer or in locally prepared operating procedures, shut down the operation immediately and take corrective action. The operation shall not be resumed until the pressure drop is returned within the specified limit(s).
4. The requirements of paragraphs §63.745 (g)(1) through (g)(3) of this section do not apply to the following:
   (a) Touch-up of scratched surfaces or damaged paint;
   (b) Hole daubing for fasteners;
   (c) Touch-up of trimmed edges;
   (d) Coating prior to joining dissimilar metal components;
   (e) Stencil operations performed by brush or air brush;
   (f) Section joining;
   (g) Touch-up of bushings and other similar parts;
   (h) Sealant detackifying;
   (i) Painting parts in an area identified in a title V permit, where the permitting authority has determined that it is not technically feasible to paint the parts in a booth as follows
      (i) The part is too large to be painted in a booth.
      (ii) The coatings are not spray applied.
      (iii)The part would need to be removed from a fixture/tool to be painted in a booth.
      (iv)Cycle time restrictions prior to subsequent operations make it time prohibitive to move the part to a paint booth.
      (v) Other operations where engineering analysis recommends the part be painted outside of a booth.
      (vi)Painting of joint areas, sealant areas, or small standards parts including but not limited to bushings, fasteners, nuts, shims, and spacers that is incidental to the application of the coating and is required to achieve complete coverage.
   (j) The use of hand-held spray can application methods.

Response to Comment #30: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #31: Page 21, Condition EU0060 through EU0110-002, Operational Limitation

Please correct the following typographical errors

Under 1.(vi) delete the "1" prior to the word "Electrodeposition"

In 2. add a "r" after the "e" in the word "manufacture's"

Response to Comment #31: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #32: Page 21, Condition EU0060 through EU0110-002, Operational Limitation

The exemptions listed in §63.745(f)(3) need to be added to this section of the permit.

Response to Comment #32: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #33: Page 21, Condition EU0060 through EU0110-002, Monitoring

Please correct the following typographical errors

Delete the "e" at the end of the word "pursuante".

Add an "r" at the end of the word "manufacture"

Response to Comment #33: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Condition #34: Pages 22-23, Condition EU0060 through EU0110-002

MDNR has proposed to include in the Monitoring and Recordkeeping sections of this permit condition specific pressure drop ranges for purposes of determining compliance with the emission limitation. Boeing reiterates its objection to inclusion of the pressure drop ranges for each booth (See email from Bret Spoerle to Amish Daftari dated 3/10/03), and urges that MDNR modify the permit condition to reflect only the language of the underlying requirement, which requires only that the facility utilize certified filters and operate within the limits specified by the filter manufacturer. Since filters are routinely replaced, the Boeing facilities consume large numbers of filters during regular operations. In order to remain competitive and responsive to changes in the market, Boeing must retain maximum flexibility to switch filter suppliers, either due to technical or economic considerations. Since the acceptable pressure drop range is specific to each type of filter supplied by various filter manufacturers, inclusion of a specific pressure drop range in the permit will constrain Boeing's ability to utilize alternate suppliers or filters. Any change in filter could require a change in the permitted pressure drop range, which would be considered a significant permit modification. For this reason, the pressure drop ranges should not be placed in the Title V permit.

The last bulleted item in the Monitoring section states that the pressure drop should be monitored while primer or topcoat applications are occurring. As stated in § 63.745(g), pressure drop monitoring is only required for application primers and topcoats that contain Inorganic HAP. Therefore, please clarify that monitoring is required only for primer or topcoat application operations in which inorganic HAP containing coatings are spray applied.

In the Recordkeeping section, Boeing notes the following typographical errors:

Under "Primers and Topcoats" in 2. insert the word "as" in front of the word "applied".

Under Inorganic HAP Control in 1. add the phrase "complying with 63.745(g)" after the word "emissions".

Under Inorganic HAP Control delete 2. because this facility does not use water wash booths.

Also, in the Reporting section, Boeing noted the following typographical error:

Replace the word "conet" with "content"

Finally, since the facility has no waterwash booths, please delete the following:

All times when a primer or topcoat application was not immediately shut down when the pressure drop across a dry particulate filter or HEPA filter system, the water flow rate through a conventional waterwash system was outside the (§63.753(c)(1)(i))limit(s) specified by the filter or booth manufacturer or in locally prepared operating procedures.

And replace with:

All times when a primer or topcoat application was not immediately shut down when the pressure drop across a dry particulate filter or HEPA filter system was outside the limit(s) specified by the filter or booth manufacturer or in locally prepared operating procedures.

Response to Comment #34: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #35: Page 23, Permit Condition (EU0060 through EU0110)-003, Emission Limitation

Boeing requests that the permit not include the actual calculated limits for the allowable emission rate of these units. These emission rates are based on tables in the regulation.

Note that the regulation has two limits. The facility must meet one of the two. The table and equations should be referenced in the permit, since exceeding either one of those is not noncompliance, unless the other is also exceeded.
Response to Comment #35: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #36: Page 23, Condition EU0060 through EU0110-003, Monitoring and Record Keeping

Based on calculations in the Statement of Basis EU0060, EU0070, and EU0080 meet their limits without control. In addition, these booths are required to meet stringent 40 CFR Part 63 Subpart GG filter requirements.

These inspections will cause the painters to spend significant additional time prior to painting each shift. In order to inspect all of the filters for "holes, imperfections, proper installation or other problems" the painters will have to move or remove the first stage filters, climb and move

ladders, and then inspect each of the filters, which may have multiple pockets or folds to be examined. These inspections will be another opportunity for the filters to be damaged.

The Monitoring requirements arbitrarily imposed by DNR are unnecessary and overly burdensome. Under the Monitoring delete

Monitoring:

- The spray booth equipped with fabric filter shall not be operated without a fabric filter in place.
- Fabric filters shall be inspected for holes, imperfections, proper installation or other problems that could hinder the effectiveness of the filter.
- The filters shall be inspected each shift before spraying begins in a booth and after installation of a new filter.
- The manufacturer's recommendations shall be followed with regard to installation and frequency of replacement of the filters.

Record Keeping:

- The permittee shall maintain records of the inspections of fabric filters when they occur.
- All inspections, corrective actions, and instrument calibrations shall be recorded.

And replace with:

"Monitoring/Record Keeping:

- The one-time compliance demonstration is listed in the Statement of Basis.

Response to Comment #36: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #37: Page 24, Condition (EU0060 through EU0110)-004, Emission Limitation

The second bulleted section refers to "10 CSR 10-5.295 (3)(A)", "subsection (3)(A) of 10 CSR 10-5.295", and "subsection (5)(C)". These portions of the rule are not identified in the permit. Please add references to the section as it appears in the permit, or identify the regulatory citation for each provision listed in the permit (something similar to what was done for the Aerospace NESHAP), so that it is clear exactly what requirements are being referenced.

Response to Comment #37: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #38: Page 24 & 25, Condition EU0060 through EU0110-004, Emission Limitations

First bullet, 1., last sentence remove "to" in the phrase "coating applicator that applies to primers".

Second bullet references Emission Limitation 1(a), but there is no Emission Limitation 1(a).

Response to Comment #38: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #39: Page 24 & 25, Condition EU0060 through EU0110-004, Emission Limitations

The "Housekeeping procedures", "Hand-wipe cleaning", "Spray gun cleaning", and "Flush cleaning" sections should be included in the appropriate facility-wide emission units (EU0010 and EU0030) and not in these emission units. Please remove these provisions from this emission unit.

Response to Comment #39: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #40: Page 24 & 25, Condition EU0060 through EU0110-004, Emission Limitations

Please add the following exemptions from 10 CSR 10-5.295(3)(I) to the emission limitations:

"(I) The following activities are exempt from this section:

1. Research and development;
2. Quality control;
3. Laboratory testing activities;
4. Chemical milling;
5. Metal finishing;
6. Electrodeposition except for the electrodeposition of paints;
7. Composites processing except for cleaning and coating of composite parts or components that become part of an aerospace vehicle or component as well as composite tooling that comes in contact with such composite parts or components prior to cure;
8. Electronic parts and assemblies except for cleaning a topcoating of completed assemblies;
9. Manufacture of aircraft transparencies;
10. Wastewater treatment operations;
11. Manufacturing and rework of parts and assemblies not critical to the vehicle's structural integrity or flight performance;

12. Regulated activities associated with space vehicles designed to travel beyond the limit of the earth's atmosphere including but not limited to satellites, space stations, and the space shuttle;

13. Utilization of primers, topcoats, specialty coatings, cleaning solvents, chemical milling maskants, and strippers containing VOC at concentrations less than 0.1 percent for carcinogens or 1 percent for noncarcinogens;

14. Utilization of touchup, aerosol can, and Department Defense classified coatings;

15. Maintenance and rework of antique aerospace vehicle and components; and

16. Rework of aircraft or aircraft components if the holder the Federal Aviation Administration design approval, or the holder's licensee, is not actively manufacturing the aircraft or aircraft components."

Response to Comment #40: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #41: Page 25, Condition EU0060 through EU0110-004, Monitoring

A monitoring plan is required for (3)(B)3 control equipment. This facility uses compliant coatings instead of control equipment. This facility is not required to have a monitoring plan. Please delete:

> Each owner or operator of an aerospace manufacturing and/or rework operation shall submit a monitoring plan to the director that specifies the applicable operating parameter value, or range of values, to ensure ongoing compliance with paragraph (3)(B)3. of this rule. Any monitoring device, required by the monitoring plan, shall be installed, calibrated, operated, and maintained in accordance with the manufacturer's specifications.

And combine monitoring with the drafted recordkeeping requirements.

Response to Comment #41: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #42: Page 26, Condition EU0060 through EU0110-004, Record Keeping

First bullet 1., add a "s" to the word "coating"

The section refers to "subsection (3)(A)" and "paragraph (3)(B)2." These portions of the rule are not identified in the permit. Please add references to the section as it appears in the permit, or identify the regulatory citation for each provision listed in the permit (something similar to what was done for the Aerospace NESHAP), so that it is clear exactly what requirements are being referenced.

The second bullet relates to cleaning solvents. Please remove this section, as the provisions for cleaning solvents are located under other emission units.

Under the second bullet 1. please change the "g" in semi-agueous to a "q".

Response to Comment #42: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #43: Page 26, Condition EU0120 through EU0130

Please delete EU0130 (SB-598-07) because this unit is no longer at the facility.

Response to Comment #43: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #44: Page 26, Condition EU0120 through EU0130

Please delete entire condition (EU0120 through EU0130)-001 (40 CFR Part 63 Subpart GG) requirements from these sources. These sources have not been used for 40 CFR Part 63 Subpart GG and we do not expect that they will be needed in near future for aerospace parts.

Response to Comment #44: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #45: Page 31, Condition (EU0120 through EU0130)-002, Emission Limitation

The second bulleted section refers to "10 CSR 10-5.295 (3)(A)", "subsection (3)(A) of 10 CSR 10-5.295", and "subsection (5)(C)". These portions of the rule are not identified in the permit. Please add references to the section as it appears in the permit, or identify the regulatory citation for each provision listed in the permit (something similar to what was done for the Aerospace NESHAP), so that it is clear exactly what requirements are being referenced.

Response to Comment #45: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #46: Page 31, Condition (EU0120 through EU0130)-002, Emission Limitation

First bullet, 1., last sentence remove "to" in the phrase "coating applicator that applies to primers".

Second bullet references Emission Limitation •1, but there are several Emission Limitation •1 in this section—it is unclear what is being referenced.

Response to Comment #46: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #47: Page 32 and 33, Condition (EU0120 through EU0130)-002, Emission Limitation

The "Housekeeping procedures", "Hand-wipe cleaning", "Spray gun cleaning", and "Flush cleaning" sections should be included in the appropriate facility-wide emission units (EU0010

and EU0030)and not in these emission units. Please remove these provisions from this emission unit.

Response to Comment #47: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #48: Page 31-33, Condition EU0060 through EU0110-004, Emission Limitations

Please add the following exemptions from 10 CSR 10-5.295(3)(I) to the emission limitations:

"(I) The following activities are exempt from this section:

1. Research and development;

2. Quality control;

3. Laboratory testing activities;

4. Chemical milling;

5. Metal finishing;

6. Electrodeposition except for the electrodeposition of paints;

7. Composites processing except for cleaning and coating of composite parts or components that become part of an aerospace vehicle or component as well as composite tooling that comes in contact with such composite parts or components prior to cure;

8. Electronic parts and assemblies except for cleaning a topcoating of completed assemblies;

9. Manufacture of aircraft transparencies;

10. Wastewater treatment operations;

11. Manufacturing and rework of parts and assemblies not critical to the vehicle's structural integrity or flight performance;

12. Regulated activities associated with space vehicles designed to travel beyond the limit of the earth's atmosphere including but not limited to satellites, space stations, and the space shuttle;

13. Utilization of primers, topcoats, specialty coatings, cleaning solvents, chemical milling maskants, and strippers containing VOC at concentrations less than 0.1 percent for carcinogens or 1 percent for noncarcinogens;

14. Utilization of touchup, aerosol can, and Department Defense classified coatings;

15. Maintenance and rework of antique aerospace vehicle and components; and

16. Rework of aircraft or aircraft components if the holder the Federal Aviation Administration design approval, or the holder's licensee, is not actively manufacturing the aircraft or aircraft components."

Response to Comment #48: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #49: Page 33, Condition EU0120 through EU0130-002, Monitoring

A monitoring plan is required for (3)(B)3 control equipment. This facility uses compliant coatings instead of control equipment. This facility is not required to have a monitoring plan. Please delete:

Each owner or operator of an aerospace manufacturing and/or rework operation shall submit a monitoring plan to the director that specifies the applicable operating parameter value, or range of values, to ensure ongoing compliance with paragraph (3)(B)3. of this rule. Any monitoring device, required by the monitoring plan, shall be installed, calibrated, operated, and maintained in accordance with the manufacturer's specifications.

And combine monitoring with the drafted recordkeeping requirements.

Response to Comment #49: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #50: Page 33, Condition EU0120 through EU0130-002, Record Keeping

First bullet 1., add a "s" to the word "coating"

The section refers to "subsection (3)(A)" and "paragraph (3)(B)2." These portions of the rule are not identified in the permit. Please add references to the section as it appears in the permit, or identify the regulatory citation for each provision listed in the permit (something similar to what was done for the Aerospace NESHAP), so that it is clear exactly what requirements are being referenced.

The second bullet relates to cleaning solvents. Please remove this section, as the provisions for cleaning solvents are located under other emission units.

Response to Comment #50: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #51: Page 33, Condition EU0140 through EU0150

Emission Unit SB-598-08 (EU0150) has been removed from the facility as stated in Boeing letter 464C-BSS-4845 dated November 12, 1999.

Emission Unit MB-598-01 (EU0140) was composed of three sections. Two sections were removed from the facility and the remaining one was moved to Building 505 and renamed MB-505-01 as stated in Boeing letter 464C-BSS-4845 dated November 12, 1999.

Response to Comment #51: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #52: Page 33, Emission Unit EU0140

Please move this emission unit to the group of emission units including EU0060 through EU0110. These units all have the same applicable requirements. This will help to streamline the permit.

Response to Comment #52: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #53: Page 42, Emission Unit EU0160

This emission unit has been removed. It no longer exists and should be removed from the permit.

Response to Comment #53: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #54: Page 43, Emission Units EU0170 and EU0180

Construction Permit # 0997-007 covers these two boilers.

Response to Comment #54: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #55: Page 44, Condition (EU0170 through EU0220)-001, Emission Limitation

The limit is incorrectly stated in the units lb/hr. It should be in lb/MMBTU.

Response to Comment #55: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #56: Page 44, Condition (EU0170 through EU0220)-001, Emission Limitation

We request that the calculated number not be inserted into the permit. Insignificant activities may be modified/added/removed without any permit modification. However, the facilities overall MHDR may change when these changes are made causing the emission limitation listed in the permit to be incorrect.

Response to Comment #56: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #57: Page 44, Condition (EU0170 through EU0220)-001, Monitoring/Record Keeping

Please put the potential emission rate in the Statement of Basis instead of having a separate record keeping requirement. The Statement of Basis is already required to be kept with the Title V permit.

The potential to emit particulates from EU0170 through EU0220 (based on AP-42 emission factors) is:

Natural Gas:

(7.6 #/MMSCF) / (1,020 MMBTU/MMSCF) = 7.451 * 10^-3 lb/MMBTU

Fuel Oil #2:

(1 #/1000 gals) / (140 MMBTU/1,000 gals) = 7.143 * 10^-3 lb/MMBTU

These are both less than the limit.

Response to Comment #57: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #58: Page 45, Condition, (EU0170 through EU0220)-002, Monitoring/Record Keeping/Reporting

The notification of a change of fuel type should only be for a fuel other than natural gas or fuel oil no. 2. The permittee has demonstrated compliance with the standard for either of these fuels. There is no reason notification is needed to assure compliance with this rule.

If notification is required, when is it required by?

Response to Comment #58: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #59: Page 45, Condition, (EU0170 through EU0220)-002, Monitoring/Record Keeping/Reporting

The language following the third bullet is either excess or incomplete.

Response to Comment #59: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #60: Page 46, EU0230 through EU0240-001,

Please combine EU0230 and EU240 into one emission unit.

Add the following § 63.743(b) requirement to the appropriate section of the permit

> Startup, shutdown, and malfunction plan. Each owner or operator that uses an air pollution control device or equipment to control HAP emissions shall prepare and operate in accordance with a startup, shutdown, and malfunction plan in accordance with § 63.6. Dry particulate filter systems operated per the manufacturer's instructions are exempt from a startup, shutdown, and malfunction plan. A startup, shutdown, and malfunction plan shall be prepared for facilities using locally prepared operating

procedures. In addition to the information required in § 63.6, this plan shall also include the following provisions:

(1) The plan shall specify the operation and maintenance criteria for each air pollution control device or equipment and shall include a standardized checklist to document the operation and maintenance of the equipment;

(2) The plan shall include a systematic procedure for identifying malfunctions and for reporting them immediately to supervisory personnel; and

(3) The plan shall specify procedures to be followed to ensure that equipment or process malfunctions due to poor maintenance or other preventable conditions do not occur.

Response to Comment #60: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #61: Page 46, EU0230 through EU0240-001, Emission Limitation/Operation Limitation

Add § 63.746(b)(4) requirements for the Boeing baghouse used in the depainting operation as follows

Each owner or operator of a new or existing depainting operation complying with § 63.746 (b)(2), that generates airborne inorganic HAP emissions from dry media blasting equipment, shall:

(a) Perform the depainting operation in an enclosed area, unless a closed-cycle depainting system is used.

(b) Pass any air stream removed from the enclosed area or closed-cycle depainting system through a dry particulate filter system, certified using the method described in § 63.750(o) to meet or exceed the efficiency data points in Tables 1 and 2 of § 63.745, through a baghouse, or through a waterwash system before exhausting it to the atmosphere.

(c) Mechanical and hand sanding operations are exempt from the requirements in paragraph (b)(4) of this section.

Delete the fourth and fifth bullet items. These apply to control systems which Boeing does not use.

Response to Comment #61: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #62: Page 48-49 , EU0230 through EU0240-001, Recordkeeping

Delete the second and third bullet. This applies to controls systems and Boeing does not use a control system for depainting.

Delete the seventh bullet (*Inorganic HAP emissions)* because Boeing uses a baghouse for their depainting operation.

Response to Comment #62: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #63: Page 49, EU0230 through EU0240-001, Reporting

First bullet, 7. can be deleted because Boeing uses a baghouse and is not subject to these requirements.

Response to Comment #63: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #64: Page 49, EU0230 through EU0240-001, Reporting

There are no pressure drop or water flow rate requirements for this unit. Delete:

- The permittee shall submit annual reports occurring every 12 months from the date of the notification of compliance status that identify: (§63.753(d)(2))
  1. The average volume per aircraft of organic HAP-containing chemical strippers or weight of organic HAP used for spot stripping and decal removal operations if it exceeds the limits specified in § 63.746(b)(3); and (§63.753(d)(2)(i))
  2. The number of times the pressure drop limit(s) for each filter system or the number of times the water flow rate limit(s) for each waterwash system were outside the limit(s) specified by the filter or booth manufacturer or in locally prepared operating procedures. (§63.753(d)(2)(ii))

Replace with

- The permittee shall submit annual reports occurring every 12 months that identify: (§63.753(d)(2))
  1. The average volume per aircraft of organic HAP-containing chemical strippers or weight of organic HAP used for spot stripping and decal removal operations if it exceeds the limits specified in § 63.746(b)(3). (§63.753(d)(2)(i))

Response to Comment #64: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #65: Page 50, Emission Unit EU0250

Please delete this emission unit. This emission unit does not exist.

Response to Comment #65: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #66: Page 50, Emission Unit EU0270

Please delete this emission unit. It has been removed from the facility.

Response to Comment #65: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #67: Page 51, Emission Units EU0310-EU0320

EIQ Reference number refers to the emission units from the previous section.

Response to Comment #66: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #68: Page 51, Emission units EU0310-EU0320

Please change the description of each unit to Fuel Oil #2/Diesel fired. The permittee considers these fuels to be equivalent. The same requirements apply to the units if either fuel is used.

Response to Comment #68: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #69: Page 52, Condition EU0330

This emission unit only applies to materials generated from operations governed by 40 CFR Part 63, Subpart GG and has no monitoring, recordkeeping, or reporting requirements on it's own. Boeing suggests that the requirements as stated in §63.748 be added to each 40 CFR Part 63, Subpart GG emission unit and that EU0330 be deleted.

Response to Comment #69: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #70: Page 53, Condition EU0340-001, Monitoring and Record Keeping

There is no requirement for a vapor recovery system on this storage tank. None of the monitoring requirements are required by the regulation. The listed monitoring is asking for monitoring of emission limitations that are not listed under emission limitation. In addition, there is a typographical error in the first sentence under the Record Keeping. An, is listed instead of and. Please delete

Monitoring:
The permittee shall monitor the vapor recovery system and the gasoline loading equipment in a manner that prevents:

- Gauge pressure from exceeding 4500 pascals (18 in. of water) in the delivery vessel.
- A reading equal to or greater than 100% of the lower explosive limit (LEL, measured as propane) at 2.5 centimeters from all points on the perimeter of a potential leak source during loading and transfer operations
- Visible liquid leaks during loading or transfer operations.

Record Keeping:
Keep record documenting the number of delivery vessels unloaded an their owners. Also keep records of routine and unscheduled maintenance and repairs and of all results of

tests conducted. Records shall be kept for five (5) years and made available upon request.

Replace with

Monitoring/Record Keeping:
Keep records documenting the number of delivery vessels unloaded and their owners. Records shall be kept for five (5) years and made available upon request.

Response to Comment #70: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #71: Page 54, Condition EU0360-001, Monitoring

The monitoring and record keeping requirements should be written to where they can be easily understood. The two year record retention conflicts with the five year retention period required in the General Record Keeping and Reporting Requirements (10 CSR 10-6.065(6)(C)1.C). Please change the monitoring and recordkeeping provisions to the following:

Monitoring/Record Keeping:
The permittee shall keep records of the tank dimensions for the life of the tank.

Response to Comment #71: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #72: Page 55, Condition EU0370-002

The methodology for calculating emissions is provided by formula in 40 CFR §63.465(c). However, it should be noted that Boeing does not remove solid waste described as "SSR(i)" in 40 C.F.R. §63.465(c)(1) from the vapor degreasers subject to 40 C.F.R. Part 63, Subpart T. The liquid solvent described as LSR(i) in 40 C.F.R. §63.465(c)(1) could be contaminated with solids, grease, water, and other materials. In order to address this problem, EPA Region VII has issued a letter determination regarding how to make this calculation, dated March 12, 1997 and published in the Applicability Determination Index, Control Number M970030. According to this guidance, "when calculating the amount of halogenated HAP liquid solvent removed from a solvent cleaning machine, EPA suggests using the same halogenated HAP concentration of the liquid removed as that of the liquid added to the machine." This methodology is used by Boeing and we would like this documented in our statement of basis.

Response to Comment #72: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #73: Page 56, Condition EU0370-002, Monitoring

Since there is no "paragraph c" in the permit, please change in the first bullet "paragraph(c)" to "63.465(c)".

Response to Comment #73: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #74: Page 56, Condition EU0370-002, Monitoring

Since Boeing does not use a continuous web cleaning machine, please delete the following phrase

> Except as provided in paragraphs (f) and (g) of this section for continuous web cleaning machines,

Response to Comment #74: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #75: Page 56 & 57, Condition EU0370-002, Monitoring

Since the Boeing vapor degreaser has a solvent air interface, please delete the references and equations for vapor degreasers without a solvent/air interface in the second bullet.

Response to Comment #75: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #76: Page 57, Condition EU0370-002, Monitoring

Item 4 under the second bullet requires the permittee to calculate potential to emit from "all solvent cleaning operations." The potential to emit is not required for any calculations performed for 40 CFR Part 63 Subpart T compliance. Please delete item 4.

Response to Comment #76: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #77: Page 57, Condition EU0370-002, Reporting

Some of the applicable wording seemed to be missing. Delete

Reporting:

- Initial Statement of Compliance – due within 150 days of NESHAP or startup, whichever is later.
- Each owner or operator of a batch vapor or in-line solvent cleaning machine complying with the provisions of § 63.464 shall submit a solvent emission report every year. This solvent emission report shall contain the requirements specified in paragraphs (g)(1) through (g)(4) of this section.
  1. The size and type of each unit subject to this subpart (solvent/air interface area or cleaning capacity).
  2. The average monthly solvent consumption for the solvent cleaning machine in kilograms per month.
  3. The 3-month monthly rolling average solvent emission estimates calculated each month using the method as described in § 63.465(c).
  4. The reports required under paragraphs (f) and (g) of this section can be combined into a single report for each facility.(§63.468(g))

- Each owner or operator of a batch vapor or in-line solvent cleaning machine shall submit an exceedance report to the Administrator semiannually except when, the Administrator determines on a case-by-case basis that more frequent reporting is necessary to accurately assess the compliance status of the source or, an exceedance occurs. Once an exceedance has occurred the owner or operator shall follow a quarterly reporting format until a request to reduce reporting frequency under paragraph (i) of this section is approved. Exceedance reports shall be delivered or postmarked by the 30th day following the end of each calendar half or quarter, as appropriate. The exceedance report shall include the applicable information in paragraphs (h) (1) through (3) of this section.
    1. Information on the actions taken to comply with § 63.463 (e) and (f). This information shall include records of written or verbal orders for replacement parts, a description of the repairs made, and additional monitoring conducted to demonstrate that monitored parameters have returned to accepted levels.
    2. If an exceedance has occurred, the reason for the exceedance and a description of the actions taken.
    3. If no exceedances of a parameter have occurred, or a piece of equipment has not been inoperative, out of control, repaired, or adjusted, such information shall be stated in the report.(§63.468(h))
- An owner or operator who is required to submit an exceedance report on a quarterly (or more frequent) basis may reduce the frequency of reporting to semiannual if the conditions in paragraphs (i)(1) through (i)(3) of this section are met.
    1. The source has demonstrated a full year of compliance without an exceedance.
    2. The owner or operator continues to comply with all relevant recordkeeping and monitoring requirements specified subpart A (General Provisions) and in this subpart.
    3. The Administrator does not object to a reduced frequency of reporting for the affected source as provided in paragraph (e)(3)(iii) of subpart A (General Provisions).(§63.468(i))
- The permittee shall report to the Air Pollution Control Program Enforcement Section, P.O. Box 176, Jefferson City, MO 65102, no later than ten (10) days after any exceedance of any of the terms imposed by this regulation, or any malfunction which could possibly cause an exceedance of this regulation.

Replace with

Reporting:

- The permittee shall submit an initial notification report to the Administrator no later than August 29, 1995. (§ 63.468(a))
- Initial Statement of Compliance – due within 150 days of NESHAP or startup, whichever is later. (§ 63.468(c))
- Each owner or operator of a batch vapor or in-line solvent cleaning machine complying with the provisions of § 63.464 shall submit a solvent emission report every year. This solvent emission report shall contain:
    1. The size and type of each unit subject to 40 CFR Part 63 Subpart T (solvent/air interface area or cleaning capacity). (§ 63.468(g)(1))
    2. The average monthly solvent consumption for the solvent cleaning machine in kilograms per month. (§ 63.468(g)(2))

3. The 3-month monthly rolling average solvent emission estimates calculated each month using the method as described in § 63.465(c). (§ 63.468(g)(3))
4. The reports required under §63.468 (f) and (g) can be combined into a single report for each facility.(§63.468(g)(4))

- Each owner or operator of a batch vapor or in-line solvent cleaning machine shall submit an exceedance report to the Administrator semiannually except when, the Administrator determines on a case-by-case basis that more frequent reporting is necessary to accurately assess the compliance status of the source or, an exceedance occurs. Once an exceedance has occurred the owner or operator shall follow a quarterly reporting format until a request to reduce reporting frequency under §63.468(i) is approved. Exceedance reports shall be delivered or postmarked by the 30th day following the end of each calendar half or quarter, as appropriate. The exceedance report shall include:
  1. Information on the actions taken to comply with § 63.463 (e) and (f). This information shall include records of written or verbal orders for replacement parts, a description of the repairs made, and additional monitoring conducted to demonstrate that monitored parameters have returned to accepted levels. (§ 63.468(h)(1))
  2. If an exceedance has occurred, the reason for the exceedance and a description of the actions taken. (§ 63.468(h)(2))
  3. If no exceedances of a parameter have occurred, or a piece of equipment has not been inoperative, out of control, repaired, or adjusted, such information shall be stated in the report.(§63.468(h)(3))
- An owner or operator who is required to submit an exceedance report on a quarterly (or more frequent) basis may reduce the frequency of reporting to semiannual if:
  1. The source has demonstrated a full year of compliance without an exceedance. (§ 63.468(i)(1))
  2. The owner or operator continues to comply with all relevant recordkeeping and monitoring requirements specified subpart A (General Provisions) and in this subpart. (§ 63.468(i)(2))
  3. The Administrator does not object to a reduced frequency of reporting for the affected source as provided in paragraph (e)(3)(iii) of subpart A (General Provisions). (§63.468(i)(3))
- The permittee shall report to the Air Pollution Control Program Enforcement Section, P.O. Box 176, Jefferson City, MO 65102, no later than ten (10) days after any exceedance of the applicable 3-month rolling average in the Emission Limitation.

Response to Comment #77: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #78: Page 58, Condition EU0370-003, Emission limitation

The first line should reference "Each vapor degreaser" not "Each cold cleaner".

Response to Comment #78: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #79: Page 59, Condition EU0370-003, Emission limitation

Item 5 has a typo. "avoce" ????

Item 8 has a typo. "proff" ????

> Response to Comment #79: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #80: Page 60, EU0400

This unit is no longer present. Please remove it from the permit.

> Response to Comment #80: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #81: Page 61, Condition (EU0380 through EU0390)-002, Operation Limitation

The units only burn natural gas, not fuel oil.

> Response to Comment #81: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #82: Page 61, Condition (EU0380 through EU0390)-002, Monitoring/Record Keeping

The units are natural gas units. The fact that they burn natural gas is how compliance is verified. The sulfur content of the natural gas does not need to be verified. Please remove the requirement for maintaining fuel receipts.

> Response to Comment #82: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #83: Page 61, Condition (EU0380 through EU0390)-002, Reporting

The first bullet implies that other fuels may be used so long as the agency is notified within 10 days of the fuel switch. The operational limitation states that the only fuel that may be used is natural gas (corrected from number 2 fuel oil). If the unit can only use one fuel, then there is no notification possible. If the unit can change fuels, but must notify the agency within 10 days, then the operational limit is incorrect and excess. Therefore please delete the operational limitation or the reporting requirement.

> Response to Comment #83: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #84: Page 61-64, EU0410 through EU0460 and EU0470 through EU0530

Please combine all of these units into a single unit. The agency has listed natural gas units less than 10 MMBTU/hr, but greater than 1 MMBTU/hr MHDR. In the previous permit these were

all grouped as one single unit. We feel there is no reason not to group them now. They are all natural gas units that are less than 10 MMBTU/hr MHDR individually. They were grouped on form C02 in the application as insignificant activities. It would be appropriate to include these in a single emission unit covered by 10 CSR 10-5.030 and 10 CSR 6.260. The existing and new requirements of 10 CSR 10-5.030 could both be included in that unit. (Note that as currently written the permit shows EU0530 (CS-STC-01) as a new unit under 10 CSR 10-5.030. Some of the heaters included in that unit are new, but some are existing.)

Response to Comment #84: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #85: Page 61 and 63, (EU0410 through EU0460)-001 and (EU0470 through EU0530)-001, Emission Limitation

We request that the calculated number not be inserted into the permit. Insignificant activities may be modified/added/removed without any permit modification. However, the facilities overall MHDR may change when these changes are made causing the emission limitation listed in the permit to be incorrect.

Response to Comment #85: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #86: Page 61 and 63, (EU0410 through EU0460)-001 and (EU0470 through EU0530)-001

The permit conditions are missing the –001.

Response to Comment #86: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #87: Page 62 and 64, (EU0410 through EU0460)-001 and (EU0470 through EU0530)-001, Monitoring/Record Keeping

Please put the potential emission rate in the Statement of Basis instead of having a separate record keeping requirement. The Statement of Basis is already required to be kept with the Title V permit.

The potential to emit particulates from EU0410 through EU0530 (based on AP-42 emission factors) is:

Natural Gas:

(7.6 #/MMSCF) / (1,020 MMBTU/MMSCF) = 7.451 * 10^-3 lb/MMBTU

This is less than the limit.

Response to Comment #87: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #88: Page 62 and 64, Condition, (EU0410 through EU0460)-002 and (EU0470 through EU0530)-002

The permit condition are missing the –002.

Response to Comment #88: Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.

Comment #89: Page 62 and 64, Condition, (EU0410 through EU0460)-002 and (EU0470 through EU0530)-002, Emission Limitation

The emission limitations for these units apply to fuel oil and coal. These units only burn natural gas.

Response to Comment #89: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #90: Page 62 and 64, Condition, (EU0410 through EU0460)-002 and (EU0470 through EU0530)-002, Monitoring/Record Keeping/Reporting

The second and fourth bullets imply that other fuels may be used so long as the agency is notified within 10 days of the fuel switch. The operational limitation states that the only fuel that may be used is natural gas. If the unit can only use one fuel, then there is no notification possible. If the unit can change fuels, but must notify the agency within 10 days, then the operational limit is incorrect and excess. Therefore please delete the operational limitation or the reporting requirements.

Response to Comment #90: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #91: Page 62, Condition, (EU0410 through EU0460)-002 and (EU0470 through EU0530)-002, Monitoring/Record Keeping/Reporting

The language following the third bullet is either excess or incomplete.

Response to Comment #91:
Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.

Comment #92: Page 64, EU0550

This unit has been removed. Please remove it from the permit.

Response to Comment #92: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #93: Page 65, EU0560

This unit has been removed. Please remove it from the permit.

Response to Comment #93: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #94: Page 66, EU0570

This unit has been removed. Please remove it from the permit.

Response to Comment #94: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #95: Page 68, 10 CSR 10-5.070, *Open Burning Restrictions*

Paragraph (e.), Please delete the phrase "and previous DNR inspection reports". This recordkeeping is not required by the regulation and is overly broad. For example, RCRA DNR inspection reports would need to be kept under the Title V permit.

Response to Comment #95: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #96: Page 69, 10 CSR 10-6.080, Emission Standards for Hazardous Air Pollutants
40 CFR Part 61 Subpart M, National Emission Standard for Asbestos

To clarify what is required under 40 CFR Part 61 Subpart M, please reword this section as follows:

10 CSR 10-6.080
Emission Standards for Hazardous Air Pollutants
40 CFR Part 61 Subpart M
National Emission Standard for Asbestos

Emission Limitations:

(1) Before engaging in any renovation or demolition activity that would disturb more than 260 linear feet of regulated asbestos containing material ("RACM") on pipes or 160 square feet of RACM on other building components, the permittee shall hire a certified asbestos abatement contractor to abate the RACM in the part of the facility that will be disturbed by the renovation or demolition activity.
(2) Prior to commencement of any demolition or renovation activity at the facility, the permittee shall inspect the part of the facility that will be affected by the demolition or renovation activity for RACM.
(3) The permittee shall require the certified asbestos abatement contractor hired to abate RACM in accordance with subsection (1) above to comply with the following:
    (a) the work practices for asbestos emission control pursuant to 61.145(c);
    (b) the work practices and procedures for waste disposal pursuant to 61.150; and
    (c) the work practices for air cleaning pursuant to 61.152.

Monitoring/Record Keeping:

The permittee or its qualified asbestos abatement contractor shall keep records as required by 40 CFR 61.145(c)(7), 61.145(c)(8) and 61.150(d)(1).

Reporting:

(1) Notices required by 61.145(b) shall be submitted by the Missouri Certified Asbestos Abatement contractor or the permittee.
(2) These notices do not need to be certified by a responsible official.

Response to Comment #96: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #97: Page 69, 10 CSR 10-6.250, Asbestos Abatement Projects – Certification, Accreditation, and Business Exemption Requirements

The requirements for 10 CSR 10-6.250 on pages 69 and SB-1 seem to conflict. Additionally, in EPA's order dated July 31, 2002 responding to the Sierra Club-Ozark Chapter petition that EPA object to Doe Run Company's operating permit, Petition No. VII-1999-001, it is stated:

> "With regard to Condition PW002,for reasons not raised by the Petitioner, but otherwise identified by EPA Region 7,EPA will ask the permitting authority to remove the "Asbestos Abatement Projects -Certification, Accreditation, and Business Exemption Requirements " found at 10 CSR 10-6.250 from the title V permit. These asbestos-related requirements are not derived from Clean Air Act authority and therefore may not be placed in the title V permit as federally-enforceable Clean Air Act requirements."

Please clarify the current requirements under 10 CSR 10-6.250.

Response to Comment #97: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #98: Page 72, V. General Permit Requirements, General Record Keeping and Reporting Requirements, II) Reporting, A) 3)

There does not seem to be any regulatory basis for this requirement. Please delete II) Reporting, A) 3).

Response to Comment #98: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #99: Page 72, V. General Permit Requirements, General Record Keeping and Reporting Requirements, II) Reporting, B)

This is not the regulatory language and has a different meaning than the regulatory language. The language in the draft permit is:

"Each report must identify any deviations from emission limitations, monitoring, record keeping, reporting, or any other requirements of the permit, this includes deviations or Part 64 exceedances."

The regulatory language from 10 CSR 10-6.065(6)(C)1.C III.(b) is:

"(b) Each report submitted under subpart (6)(C)1.C.(III)(a) of this rule shall identify any deviations from permit requirement, since the previous report, that have been monitored by the monitoring systems required under the permit, and any deviations from the monitoring, recordkeeping and reporting requirements of the permit;"

The regulatory language should be used.

Response to Comment #99: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #100: Page 72, V. General Permit Requirements, General Record Keeping and Reporting Requirements, II) Reporting, D)

There appears to be a typo in the permit language. There should be a section 3) following "as soon as practicable." and before "Any other deviations". There also could be a section 4) which identifies the address for the reports. This would make it clear that all three types of supplemental reports were to be sent to that same address.

This is not the regulatory language. Listing the ten (10) days under A) makes it unclear when reports required under 1) or 2) are required. According to A) all supplemental reports are required no later than 10 days after any exceedance... However, under 1) reports are required within two (2) working days and under 2) reports are required as soon as practicable. In addition, the deadline for other supplemental reports is listed under 3) below and under reports for each individual unit.

Also, the language in the permit specifies any exceedance of any applicable rule, which is far more inclusive than the regulatory language. If all supplemental reports are desired for all exceedances, even those which pose no imminent or substantial danger to the public health, safety, or the environment, then each of those terms should be identified under the reporting for each emission unit as gap filling, which it already is. The language from 10 CSR 10-6.065 should not be modified.

The language in the draft permit is:

"A) Submit supplemental reports as required or as needed. Supplemental reports are required no later than ten (10) days after any exceedance of any applicable rule, regulation or other restriction. All reports of deviations shall identify the cause or probable cause of the deviations and any corrective actions or preventative measures taken.

1. Notice of any deviation resulting from an emergency (or upset) condition as defined in paragraph (6)(C)7 of 10 CSR 10-6.065 (Emergency Provisions) shall be submitted to the permitting authority either verbally or in writing within two (2) working days after the date on which the emission limitation is

exceeded due to the emergency, if you wish to assert an affirmative defense. The affirmative defense of emergency shall be demonstrated through properly signed, contemporaneous operating logs, or other relevant evidence that indicate an emergency occurred and that you can identify the cause(s) of the emergency. The permitted installation must show that it was operated properly at the time and that during the period of the emergency the permittee took all reasonable steps to minimize levels of emissions that exceeded the emission standards or requirements in the permit. The notice must contain a description of the emergency, the steps taken to mitigate emissions, and the corrective actions taken.

2. Any deviation that poses an imminent and substantial danger to public health, safety or the environment shall be reported as soon as practicable.
Any other deviations identified in the permit as requiring more frequent reporting than the permittee's semiannual report shall be reported on the schedule specified in the permit. These supplemental reports shall be submitted to the Air Pollution Control Program, Enforcement Section, P.O. Box 176, Jefferson City, MO 65102 no later than ten (10) days after any exceedance of any applicable rule, regulation, or other restriction."

The regulatory language from 10 CSR 10-6.065(6)(C)1.C III.(c) is:

"(c) In addition to semiannual monitoring reports, each permittee shall be required to submit supplemental reports as indicated here. All reports of deviations shall identify the cause or probable cause of the deviations and any corrective actions or preventative measures taken.
I. Notice of any deviation resulting from an emergency (or upset) condition as defined in paragraph (6)(C)7. of this rule shall be submitted to the permitting authority either verbally or in writing within two (2) working days after the date on which the emission limitation is exceeded due to the emergency, if the permittee wishes to assert an affirmative defense. The affirmative defense of emergency shall be demonstrated through properly signed, contemporaneous operating logs, or other relevant evidence that indicate an emergency occurred and the permittee can identify the cause(s) of the emergency. The permitted facility must show that it was operated properly at the time and that during the period of the emergency the permittee took all reasonable steps to
minimize levels of emissions that exceeded the emission standards or requirements in the permit. The notice must contain a description of the emergency, steps taken to mitigate emissions, and the corrective actions taken.
II. Any deviation that poses an imminent and substantial danger to public health, safety or the environment shall be reported as soon as practicable.
III. Any other deviations identified in the permit as requiring more frequent reporting than the permittee's semiannual report shall be reported on the schedule specified in the permit;"

The regulatory language should be used.

Response to Comment #100: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #101: Page 73, General Record Keeping and Reporting Requirements, 10 CSR 10-6.065(6)(C)1.C, II) Reporting E)

Please clarify in the statement of basis. This section seems to deal with the reports required by 10 CSR 10-6.065. However, a Title V permit may include many reports that are not required by 10 CSR 10-6.065, but are required by some other applicable requirement. Are these reports required to be certified? In some cases these reports may be minor monthly reports, such as our coal reports for our St. Louis Facility, that have been submitted for many years without certification.

Response to Comment #101: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment 102: Page 74

The following are listed without any requirements:

Reasonably Anticipated Operating Scenarios
10 CSR 10-6.065(6)(C)1.I.

Emissions Trading
10 CSR 10-6.065(6)(C)1.J.

Response to Comment #102: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #103: Page 74, Compliance Requirements, 10 CSR 10-6.065(6)(C)3., I)

The language from the draft permit is:

"I) Any document (including reports) required to be submitted under this permit shall contain a certification signed by the responsible official." (Bold added)

The regulatory language from 10 CSR 10-6.065(6)(C)3. is:

"A. General requirements, including certification. Consistent with the monitoring and related recordkeeping and reporting requirements of this paragraph, the operating permit must include compliance certification, testing, monitoring, reporting and recordkeeping requirements sufficient to assure compliance with the terms and conditions of the permit. Any document (including reports) required to be submitted under this rule shall contain a certification signed by a responsible official as to the results of the required monitoring." (Bold added)

The permit incorporates many other rules. These rules may have reporting requirements that become a requirement of the permit, but they are not a requirement of 10 CSR 10-6.065 – the rule. The fact that this language has been changed is an indication that the agency recognized this distinction. The fact that this language has been changed is an indication that the agency recognized this distinction.

Please correct this, so that the meaning of the permit is the same as the meaning in the underlying rule. Not correcting this discrepancy would result in requiring the responsible official to certify minor reports that may be due monthly, or even weekly. These reports may have been submitted to the agency for years under the regulations/construction permits that require them. They should not be certified by the responsible official now.

> Response to Comment #103: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #104: Page 74, Compliance Requirements, 10 CSR 10-6.065(6)(C)3., IV)

Two issues with the following language: "These certifications shall be submitted annually on April 1st, unless the applicable requirement specifies more frequent submission."

This would be better written by substituting "by" for "on". The report must be submitted by April 1st not necessarily on April 1st.

What does the language following "unless" mean? If we have a MACT standard, which requires a quarterly report (or compliance certification) do we now have to submit my Title V compliance certification quarterly? Do we now have to submit a Title V compliance certification for the covered unit(s) separately from the rest of the facility? Do we have to submit two compliance certifications quarterly? (One for the MACT and one for the operating permit) Please change the language to: "These certifications shall be submitted annually by April 1st.

> Response to Comment #104: Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.

Comment #105: Page 75, Emergency Provisions, 10 CSR 10-6.065(6)(C)7.

Please change "you" to "permittee".

> Response to Comment #105: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment 106: Page 76-77, Responsible Official, 10 CSR 10-6.020(2)(R)12.

Please add the following sentence:

The Vice President of the Shared Services Group (Gerard J. Olsen) and the Director of Safety, Health and Environmental Affairs (Michael J. Dwyer) may serve as alternate Responsible Officials should Mr. Van Gels be unavailable.

> Response to Comment 106: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #107: Page 77, Reopening Permit For Cause, 10 CSR 10-6.065(6)(E)6.

Paragraph 3), change the word "ot" to "to"

Response to Comment #107: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Statement of Basis, General Comments

Comment #108: Page SB-1, Other Air Regulations Determined Not to Apply to the Operating Permit

10 CSR 10-6.080 and 10 CSR 10-6.250 are included in the permit as applying to the facility. (See page 69 of the draft permit).

Response to Comment #108: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #109: SB-3, 40 CFR Part 63, Subpart Q

Change the word "operatied" to "operated"

Please add the fact that Boeing does not use a "control device" as defined by 40 CFR Part 63, Subpart GG in primer or topcoat application or depainting operations.

Response to Comment #109: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #110: Page SB-12 through SB-13, EU0140

This unit is now Emission Unit # MB-505-01.

Response to Comment #110: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #111: Page SB-13 through SB-15, EU0150

This unit has been removed and this information can be removed from the Statement of Basis.

Response to Comment #111: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*

Comment #112: Page SB-16, Additional Recommended Permit Revision #6

This comment states that if there were any leaking spray guns, the permittee would also be required to report to the agency within ten days. EU0030-001 addresses leaking spray gun cleaners, but not leaking spray guns. The permittee is unaware of any regulation that regulates whether spray guns leak or not, or requiring reporting leaking spray guns.

Response to Comment #112: *Please refer to Response to Comment #2 from the February 20, 2003, Comment letter from Yvonne Pierce of Boeing.*